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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

209**CRM-M-58257-2024****Date of decision: 13.02.2025**

Pritpal Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. R.S. Bajaj, Advocate
for the petitioner.

Mr. Shiva Khurmi, AAG, Punjab.

Mr. Nitin Narula, Advocate
for respondents No.2 and 3.

MANJARI NEHRU KAUL, J. (ORAL)

1. The present petition has been filed under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking the cancellation of anticipatory bail granted to respondents No.2 and 3 vide order dated 18.10.2024 by the learned Trial Court, who stand accused in case FIR No.120 dated 28.09.2024 under Sections 420, 120-B of the IPC registered at Police Station E-Division, District Amritsar.

2. The petitioner (complainant) alleges that the private respondents entered into an agreement to sell a commercial property, accepted and an earnest money deposit of approximately Rs.52 lakhs, and thereafter reneged on their commitment, thereby committing fraud and cheating upon the petitioner.

3. It has been contended by the learned counsel for the



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petitioner that vide order dated 07.10.2024, the private respondents were granted the concession of interim bail and asked to join investigation within 7 days and cooperate with the investigating agency. The learned Trial Court concerned initially dismissed the anticipatory bail application of the private respondents on 16.10.2024 vide Annexure P-3, due to their alleged failure to comply with the direction to join the investigation. However, the very next day, the private respondents moved a fresh application, upon which the learned Trial Court recalled its previous order and granted them anticipatory bail. Learned counsel for the petitioner argues that such an exercise of jurisdiction by the learned Trial Court is legally impermissible and, therefore, the bail granted to the private respondents ought to be cancelled.

4. Upon issuance of notice, the learned counsel for the State has filed a status report filed by way of an affidavit of Jaspal Singh, PPS, Assistant Commissioner of Police, Central, Amritsar City, affirming the correctness of the order of the Trial Court granting anticipatory bail to the private respondents.

5. The learned counsel for the private respondents has also opposed the present petition, asserting that the impugned order granting them bail is justified in light of the peculiar facts and circumstances of the case.

6. Learned counsel for the petitioner, however, has argued that the Trial Court acted beyond its jurisdiction by recalling its order dismissing the anticipatory bail application and subsequently granting



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relief to the private respondents. It is submitted that a Criminal Court does not possess the inherent power to review or recall its own orders except in cases involving typographical or mathematical errors. Since the impugned order does not fall within these recognized exceptions, learned counsel for the petitioner contends that the impugned order is unsustainable and ought to be set aside.

7. On the other hand, learned counsel for the private respondents submits that the order dismissing their anticipatory bail of on 16.10.2024 was passed in their absence due to a misrepresentation made by a police official before the Trial Court. It is explained that the matter was initially listed for hearing on 15.10.2024. However, owing to Gram Panchayat elections, the said date was subsequently declared a holiday, and the case was automatically adjourned to 16.10.2024. On that day, in the absence of the regular investigating officer, another police official appeared before the Trial Court and erroneously stated that the private respondents had not complied with the direction to join the investigation. However, the factual position was to the contrary; the private respondents had duly appeared before the investigating agency and fully cooperated in the investigation.

8. Upon learning that an incorrect statement had been made before the Trial Court and that their anticipatory bail application had been dismissed in their absence, the private respondents promptly moved an application for recall, bringing to light the factual error and highlighting that the dismissal order had been passed without affording them an opportunity to be heard. The Trial Court, being satisfied with



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the explanation offered and upon perusal of the material on record, rectified the situation by granting anticipatory bail to the respondents.

9. Learned State counsel, relying on the affidavit of Assistant Commission of Police, Central, Amritsar City, has candidly conceded that the dismissal of the anticipatory bail of the private respondents on 16.10.2024 was a direct consequence of an inadvertent error committed by the police official.

10. I have heard learned counsel for the parties and perused the relevant material on record.

11. It is a well established principle of law that a Criminal Court does not possess the inherent power to review or recall its own orders, except in cases where the order suffers from a clerical, typographical or mathematical error. However, the application of this rule must be considered in conjunction with the fundamental requirement of ensuring that no party is unfairly prejudiced due to circumstances beyond their control.

12. In the present case, the following facts are undisputed:

(i) The private respondents, who are women, were initially granted interim bail, and their matter was fixed for hearing on 15.10.2024. However, owing to the declaration of a public holiday on account of Gram Panchayat elections, the case was automatically adjourned to 16.10.2024.

(ii) On 16.10.2024, in the absence of the private respondents, their anticipatory bail application was dismissed primarily due to an incorrect statement made by a police official that they had failed to



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comply with the direction to join the investigation.

(iii) The Learned State counsel, on the basis of the affidavit filed by Assistant Commission of Police, Central, Amritsar City, has unequivocally admitted that the statement made before the Trial Court was erroneous and resulted from a *bona fide* mistake on the part of the police official.

(iv) The private respondents, upon discovering that the bail application had been dismissed due to an inadvertent misrepresentation, immediately approached the Trial Court by way of an application for recall, highlighting that they had duly complied with the directions passed by the Trial Court on 07.10.2024 and that the dismissal order had been passed in their absence due to unforeseen circumstances.

(v) The Trial Court, upon being apprised of the correct factual position, deemed it appropriate to rectify the situation by recalling its earlier order and granting anticipatory bail to the private respondents.

13. Although the general rule is that a Criminal Court lacks jurisdiction to recall its own orders, it cannot be ignored that the dismissal of the anticipatory bail application of the respondents'-accused's occurred in circumstances that warranted reconsideration. The private respondents cannot be made to suffer due to an error committed by a police official, nor can they be penalized for the administrative exigency resulting from the unexpected declaration of a holiday. The decision of the Trial Court to entertain the recall



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application in the circumstances cannot be said to be an arbitrary or capricious exercise of jurisdiction but a necessary step to prevent a miscarriage of justice.

14. This Court finds no illegality or perversity in the impugned order granting anticipatory bail to the private respondents. The facts of the case present an exceptional situation where the recall of the earlier order was warranted to ensure that justice was not compromised due to an inadvertent error. The petitioner has failed to demonstrate any compelling reason justifying the cancellation of bail, as the impugned order does not suffer from any legal infirmity or jurisdictional overreach. Accordingly, the present petition is dismissed.

13.02.2025

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No