

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-29244 of 2016

Date of Decision: August 27, 2016

Rakesh Kumar Jain

.....Petitioner

Vs.

State UT Chandigarh and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr. P.S. Ahluwalia, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

Respondent No.2 had been granted the concession of regular bail by an order dated May 29, 2015. Claiming that the bail had been granted illegally and in an improper manner, a revision petition under Section 399 Cr.P.C. was filed which has been dismissed by Additional Sessions Judge on December 24, 2015. The present petition has been filed for seeking the cancellation of bail granted to respondent No.2 on May 29, 2015.

Since the Magistrate has granted the concession of regular bail, the provisions of Section 439 (2) Cr.P.C. gives concurrent jurisdiction to Sessions Court as well as High Court to cancel the bail subject to the

circumstances existing in each individual case. The judicial propriety demands that when two Courts have got concurrent jurisdiction in context to a particular matter, the aggrieved person should avail the remedy by approaching the Court lower in hierarchy, unless he explains existence of exceptional circumstances.

Since the petitioner has not availed the remedy under Section 439 (2) Cr.P.C., it will be expedient in the interest of justice to relegate the petitioner to avail the said remedy.

At this stage, counsel for the petitioner seeks permission to withdraw this petition under Section 439 (2) Cr.P.C. reserving the right to challenge annexure P-13.

This petition is disposed of as not maintainable at this stage without prejudice to the other legal rights of the petitioner to avail the remedy under Section 439 (2) Cr.P.C. by approaching the Sessions Court. The order annexure P-13 will not debar the filing of said petition.

August 27, 2016
sanjay

(M.M.S.BEDI)
JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.