



**132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-1834-2025

Date of decision: 15.01.2025

DHARAMVEER

...PETITIONER

V/S

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tanvir Singh Attariwala, Advocate for the petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 483(3) read with Section 528 of B.N.S.S., 2023 for setting aside the order dated 16.11.2024 (Annexure P-4) passed by learned Additional Sessions Judge, Gurugram vide which, respondent No.2 has been granted interim regular bail in case bearing FIR No.249 dated 05.09.2023 (Annexure P-5) registered under Sections 419/420/465/467/468/471/120-B of Indian Penal Code at Police Station Sector 14, Gurugram.

2. Brief facts of the prosecution case are that one Sunil Kumar (father of the petitioner) was allotted a plot No.4770 measuring one kanal in Sector 23-23A, Gurugram and he died in 2010. Respondent No.2, in conspiracy with other accused persons, has initially personated the deceased Sunil at various authorities and succeeded in getting Ration card, PAN card, DL etc. and also opened a fictitious account. Apart from that the accused persons also, in active conspiracy with each other, had sold the land of said Sunil Kumar for legal consideration and thereby, caused huge wrongful loss to the complainant/petitioner and gained at the cost of complainant.

3. Learned counsel for the petitioner *inter alia* contends that



respondent No.2 is a kingpin of the racket and he is involved in 05 more cases and in one of the case, he has approached this Court for grant of bail, which is pending before this Court. Learned counsel submits that there was no prayer made by respondent No.2 for grant of interim bail, however, the learned Court below has not taken into consideration the antecedents of respondent No.2 and the fact that in one of the case, the bail application is pending before this Court. Learned counsel further submits that the impugned order is passed in a mechanical manner, without even adverting to the facts of the case. Further, in Para 2 of the impugned order, facts of some other FIR have been mentioned and the fact that other accused have not been arrested, cannot be a ground for grant of bail to respondent No.2.

4. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner on the ground that the learned Court below has passed a well reasoned order after considering the material placed on record.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, this Court finds no force in the arguments advanced by learned counsel for the petitioner. A perusal of the impugned order indicates that respondent No.2 was arrested on 04.04.2024 and the impugned order was passed on 16.11.2024, after respondent No.2 has suffered the incarceration of 07 months and the parameters for grant of bail and cancellation of bail are totally different. Nowhere, has it been indicated that the petitioner or the sanctity of the trial will be adversely affected, if he continues to enjoy the concession of bail. The scope of interference by the Courts qua cancellation of bail is rather limited and adjudication upon the alleged facts, does not fall within its purview. Moreover, there is a justified cause for grant of



interim bail to respondent No.2 and the trial Court has passed order dated 16.11.2024 (Annexure P-14) on correct appreciation of the facts and the law.

6. The parameters for denying bail and cancelling the same are quite varied. Denial of bail is a matter of discretion and can be decided upon without inspecting the details of the matter. If the Court is of the opinion that the accused is likely to misuse the liberty granted to him, it can deny bail simply on the basis of gravity of the offence. However, cancellation would amount to curtailment of the liberty already granted to an undertrial accused, which cannot be embarked upon in a cursory fashion. Only if a grave error is highlighted in the order granted bail or it is evident that the accused is misusing the concession, can the Court consider cancellation.

7. The scope and power of the judicial review of an order granting bail has been illustrated by the Hon'ble Supreme Court in ***Dolat Ram and others vs. State of Haryana (1995) 1 SCC 349***, as follows:-

“(i) interference or attempt to interfere with the due course of administration of justice;

(ii) evasion or attempt to evade the due course of justice;

(iii) abuse of the concession granted to the accused in any manner;

(iv) possibility of the accused absconding;

(v) likelihood of/actual misuse of bail;

(vi) likelihood of the accused tampering with the evidence or threatening witnesses.”

8. A three Judge Bench of the Hon'ble Supreme Court in ***Deepak Yadav vs. State of Uttar Pradesh and another (2022) 8 SCC 559***, speaking through Justice Krishna Murari, observed as follows:

“33. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail



of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:

- 33.1. Where the Court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.*
- 33.2. Where the Court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.*
- 33.3. Where the past criminal record and conduct of the accused is completely ignored while granting bail.*
- 33.4. Where bail has been granted on untenable grounds.*
- 33.5. Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.*
- 33.6. Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.*
- 33.7. When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.”*

9. In view of the above discussion, this Court is of the considered view that the cancellation of bail granted to respondent No.2 would not meet the objective standard of reason and justice. Learned counsel for the petitioner has been unable to indicate any perversity in the impugned order dated 16.11.2024 (Annexure P-14) or demonstrate any conduct on part of respondent No.2 that would warrant interference by this Court.

10. Accordingly, the present petition stands dismissed. The impugned order dated 16.11.2024 (Annexure P-4) passed by learned Additional Sessions Judge, Gurugram is hereby upheld.

January 15, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |