



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

CRM-M-7070-2024 (O&M)

Date of decision: 25.04.2025

Amarjit Singh

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lovepreet Singh, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Navkiran Singh, Advocate
for respondent No.2.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under section 439(2) of Cr.P.C. against the impugned order dated 29.01.2024 passed by this Court in CRM-M-3253-2024 arising out of FIR No.175 dated 08.07.2022 under Sections 308/325/323/506/34 of IPC registered at Police Station PS Jandiala, District Amritsar, for cancellation of regular bail granted to the respondent No. 2.

2. The respondent No.2, Dalbir Singh was granted regular bail in FIR(supra) vide order dated 29.01.2024 (Annexure P-1), passed by the coordinate bench of this Court. However, FIR No.175 dated 08.07.2022 under Sections 308/325/323/506/34 of IPC was registered by petitioner at Police Station Jandiala, District Amritsar, alleging that the respondent No.2 and other accused named in FIR(supra) attacked and suffered injuries to the petitioner and his father. Thereafter, present application is moved by petitioner seeking



cancellation of the bail granted to the respondent no.2, which was allowed vide impugned order dated 29.01.2024.

3. Learned counsel for the petitioner contends that petitioner has suffered two injuries out of which injury no.1 which is lacerated wound on the head inflicted by Dalbir Singh(Respondent no.2) with spade which has been declared dangerous to life by medical board. The Radio diagnosis report of injury no.1 suffered by petitioner shows fracture of the right parietal, frontal and left parietal bone. The MLR of petitioner along with other medical record is annexed as Annexure P-3. Thereafter, in the aforesaid FIR offence under section 308 of IPC has been added by investigation agency vide report dated 07.11.2023, and these facts have not been brought to the knowledge of this Court while granting regular bail to respondent no.2 vide order dated 29.01.2024 (Annexure P-1). Further, respondent no.2 had filed the first regular bail application before this Court which was listed on 07.12.2023 and learned counsel of petitioner appeared on that day and after he pointed out the injuries suffered by complainant/petitioner, the matter was adjourned to 01.03.2024. Thereafter, respondent no.2 withdrew his first bail and filed the second bail application which was listed on 29.01.2024 and was allowed on the same day. The present petitioner/complainant under the impression that the regular bail application of respondent no.2 is pending for 01.03.2024, could not check the cause list and therefore could not appear on 29.01.2024 to oppose the bail. Further, in the para no. 3 of order dated 29.01.2024, it was contended that grievous injury has been attributed to respondent No.2 and the fact that this injury had been declared dangerous to life by Medical Officer and there is fracture of right parietal, frontal and left parietal bone of the petitioner, was not disclosed. Respondent no. 2 after getting released is openly extending threats



to the petitioner and his family members and he is pressurizing them to enter into compromise in the present case.

4. *Per contra* learned State counsel contended that there is no apprehension of any threat given by the accused-private respondents or that they have tried to tamper with any evidence in any manner or that the complainant had ever submitted any representation before senior police officials or the investigating officer in that regard or that there was danger of accused absconding or fleeing from justice or that they have misused the concession of *bail*. The investigation stands completed, upon which the final report under Section 173 *Cr.P.C.* has been presented in the trial *Court* against respondent no.2 and two other accused, and the case is now fixed for framing of charge. Learned counsel for the accused-private respondent no.2 has stated that the orders granting *bail* have rightly been passed and no findings on merits of the case have been given and are mere observations to decide the application. The *Court* has also specifically mentioned that the same shall be not taken to be an expression of opinion on merits of the case. The accused has neither misused the concession of *bail* in any manner nor has threatened the complainant or influenced the witnesses or hampered the investigation and there has not even been any such allegation or complaint submitted by the complainant-petitioner. The accused-respondent has no criminal antecedents. Further, it is a case of version and cross-version.

5. 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 under trial 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.

6. 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.”*

7. 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.”

8. It is apparent that there is a matter of version and cross version between two parties. The veracity of the prosecution case against accused/respondent no.2 and co-accused shall be adjudicated upon during the course of the trial. The challan having been presented and the case now is fixed for framing of charges, require no interference. In wake of the aforesaid facts and circumstances, the order of grant of bail to the accused-respondent no.2, Dalbir Singh coupled with no supervening facts being present.

9. Applying the law as enunciated to the facts and circumstances of the case, this *Court* finds that no ground is made out for allowing the present petition. As such, the same is hereby dismissed, being devoid of merits.

10. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

25.04.2025

Neha

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