

**CRM-M-9066-2025****-1-****139 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-9066-2025****Date of Decision: 17.02.2025****Rahul****... Petitioner****versus****State of Haryana and others****... Respondents****CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. S.K. Verma, Advocate
for the petitioner.

*********HARPREET SINGH BRAR, J. (Oral)**

1. The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) (previously, Section 482 of the Criminal Procedure Code, 1973 (Cr.P.C)) seeking quashing of the orders dated 05.11.2024 (Annexure P-2) and 14.11.2024(Annexure P-3) passed by the learned Additional Sessions Judge, Rohtak, whereby respondent No.2 and 3 were granted anticipatory bail, respectively, in the case stemming from FIR No.311 dated 04.09.2024 registered under Sections 115, 126, 140(3) of the Bharatiya Nyay Sahinta, 2023 (BNS) at Police Station Urban Estate Rohtak.

2. Briefly, the facts, as alleged, are that on 10.07.2024, the petitioner-complainant boarded his mother and son on a bus when respondents No.2 and 3 arrived at the spot. They halted the bus and beaten

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up the mother of the petitioner. They also snatched Rs. 15,000/- cash and other articles from her. Thereafter, they kidnapped the son of the petitioner and fled away.

3. Learned counsel for the petitioner inter alia contends that learned Court below has fallen into grave error by granting the concession of anticipatory bail to respondents No.2 and 3 as specific allegations have been made against them. Respondent No.2 is married to the petitioner and has been living separately from him. She had left their 3-year-old son with the petitioner and his mother. Respondents No. 2 and 3 have not only snatched ₹15,000 from the mother of the petitioner but also kidnapped the child. The learned Court below has failed to consider the statement dated 09.09.2022 (Annexure P-4) made by respondent No.2 wherein she has handed over the custody of their son to the petitioner. The said statement has also been attested by SI Devi Rani, In-charge, Women Cell.

4. Having heard learned counsel for petitioner and after perusing the record with his able assistance, it transpires that learned counsel for the petitioner has not been able to indicate any reasons necessitating cancellation of the bail granted to respondents No.2 and 3. Nowhere has it been indicated that the petitioner or the sanctity of the trial will be adversely affected if they continues to enjoy the concession of bail.

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



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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.

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. Curiously, the petitioner has moved the present petition seeking quashing of orders granting bail to respondents No.2 and 3 under Section 528 BNSS (*erstwhile* Section 482 Cr.P.C.) while overlooking Section 483(3) BNSS (*erstwhile* 439(2) Cr.P.C.), the provision that specifically exists qua cancellation of bail. While it is true that the High Court can exercise its inherent powers to make the ends of justice meet, however, the same must be used with great care and caution. Moreover, an alternate remedy in terms of Section 483(3) BNSS (*erstwhile* Section 439(2)). As such, in the absence of any compelling circumstances, this Court does not find the reason to

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invoke its inherent powers under Section 528 BNSS (*erstwhile Section 482 Cr.P.C.*) either.

9. Moreover, there is a justified case for grant of anticipatory bail to respondents No.2 and 3 and the trial Court has passed orders dated 05.11.2024 (Annexure P-2) as well as 14.11.2024 (Annexure P-3) on correct appreciation of the facts and the law.

10. In view of the above discussion, this Court is of the considered view that the cancellation of bail granted to respondents No.2 and 3 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 orders dated 05.11.2024 (Annexure P-2) and dated 14.11.2024 (Annexure P-3) or demonstrate any conduct on part of respondents No. 2 and 3 that would warrant interference by this Court.

11. Accordingly, the present petition stands dismissed. The impugned orders dated 05.11.2024 (Annexure P-2) and 14.11.2024 (Annexure P-3) passed by the learned Additional Sessions Judge, Rohtak are upheld.

12. Pending miscellaneous applications, if any, stand disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

17.02.2025
Ajay Goswami

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