

2025:PHHC:124086



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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CRM-M-7949-2025 (O&M)
Date of decision : 10.09.2025

Harinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Inderjit Sharma, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Naveen Sharma, Advocate
for respondent No. 2/accused.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner/complainant under Section 483(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short* 'BNSS') for setting aside the order dated 15.01.2025 (Annexure P-2), passed by the learned Additional Sessions Judge, Bathinda, whereby respondent No. 2 had been granted concession of pre-arrest bail in case bearing FIR No. 87 dated 07.12.2024, registered under Sections 109, 351(2) and 3(5) of Bharatiya Nyaya Sanhita, 2023 and Sections 25 and 27 of the Arms Act, 1959 at Police Station Sadar Rampura, District Bathinda.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was got registered by the

petitioner against respondent No. 2 and co-accused on the allegations that when on 06.12.2024, he was going to the house of his friend Bharpur Singh, then respondent No. 2 and co-accused were standing on the way. As soon as they saw petitioner, respondent No. 2 made an exhortation to fire a shot upon him, on which, co-accused Sukhdeep Singh had fired a shot from his revolver towards him with intention to kill him, which pierced through his right bicep. The co-accused fired another shot, which hit the wall. The petitioner fell on the ground and other co-accused extended him beatings. On raising hue and cry, his friend Bharpur Singh came there and on seeing him, the assailants ran away from the spot. After registration of FIR, during course of investigation, respondent No. 2 had moved an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Bathinda, which had been allowed by passing the impugned order. The petitioner, who is originally the complainant of this case, has prayed for cancellation of benefit of pre-arrest bail granted to respondent No. 2 on the grounds that he is involved in two more cases and that his brother is serving in police department.

3. It is argued by learned counsel for the petitioner that the benefit of pre-arrest bail was extended to respondent No. 2 by not taking into consideration the overall facts of the case. Respondent No. 2 is a habitual offender as he is involved in two more case. The factum of his brother being in police department has also not been considered. This very fact is sufficient to cancel the bail granted to him as he can influence the witnesses. It is, thus, urged that the impugned order is liable to be set aside and the instant petition deserves to be allowed.

4. Status report has been filed by respondent-State, as per which, respondent No. 2 has been granted concession of pre-arrest bail by the Court of learned Additional Sessions Judge, Bathinda. He had joined the investigation and was no more required for any further interrogation. Challan has been presented before the Court and respondent No. 2 has been appearing before the learned trial Court.

5. Respondent No. 2 has adopted the reply filed by the respondent-State. Learned counsel for respondent No. 2 has argued that there is no illegality or infirmity in the impugned order. He had been granted concession of pre-arrest bail after considering all the facts and circumstances of the case. The grounds taken by the petitioner for cancellation of his bail are in fact misplaced. He has never misused the concession of bail. Therefore, it is urged that the petition is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

7. Before delving into the contentions as raised by learned counsel for the parties, I consider it necessary to discuss certain principles which govern the cancellation of bail as enunciated by Hon'ble Supreme Court in various pronouncements. Reference can firstly be made to ***MyakalaDharmarajam vs. the State of Telangana : (2020) 2 SCC 743***, wherein it was observed that an order for cancellation of bail can be made only where such order suffers from serious infirmities resulting in miscarriage of justice. If the Court granting bail ignores relevant material indicating *prima*

facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail. Reliance can further be placed upon ***Sushila Aggarwal v. State (NCT of Delhi) : (2020) 5 SCC 1***, wherein it was observed that while considering an application for grant of anticipatory bail, the Court has to consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence (including intimidating witnesses) or likelihood of his absconding. It was also observed that whether to grant bail or not is a matter of discretion of the Court. Similar position of law had been laid down in ***Dolat Ram and others vs. State of Haryana :1995 SCC (1) 349***.

8. In view of the proposition of law as laid down in the above discussed authorities, it is clear that the discretion under Section 483(3) of BNSS is to be exercised only if it is proved that bail has been granted to an accused of a heinous crime in a manner, which smacks of arbitrariness, capriciousness or perversity and on being satisfied on the basis of material placed on record that the accused has actually misused such liberty. The petitioner in this case has sought cancellation of concession of pre-arrest bail as granted to respondent No. 2 on the grounds that he is involved in two more cases and that his brother is working in police department. These allegations are not sufficient to cancel the bail as there is nothing on record to show that the impugned order suffers from any infirmity resulting in miscarriage of justice or that the relevant facts of the case were not given due consideration.

The petitioner has also failed to show that respondent No. 2 has misused the concession of bail in any manner by not appearing before the trial Court or by tampering with the prosecution evidence or there is any likelihood of his absconding. In view of the discussion as made above, this Court finds no reason to cancel the benefit of pre-arrest bail as granted to respondent No. 2. Accordingly, the petition is dismissed.

10.09.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>