



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

1. CRM-M-16577-2025 (O&M)

Kunal Thapar ...Petitioner

Versus

State of Haryana and another ...Respondents

2. CRM-M-29519-2025 (O&M)

Kunal Thapar ...Petitioner

Versus

State of Haryana and another ...Respondents

Date of decision : 15.12.2025

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ajay Kalra, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Himanshu Sharma, Advocate
for respondent No. 2.

MANISHA BATRA, J.(Oral)

1. This common order shall dispose of above mentioned two petitions as they arise out of the same FIR and are similar in nature.
2. These petitions have been filed by the petitioner/complainant under Section 483(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short* ‘BNSS’) read with Section 528 of BNSS seeking cancellation of anticipatory bail granted to respondent No. 2 vide order dated 28.10.2024, passed by this Court in *CRM-M-15949-2024*, in case arising out of FIR No. 125 dated

03.04.2023, registered under Sections 406 and 420 of IPC at Police Station Sector 40, Gurugram as well as for cancellation of regular bail granted to him vide order dated 28.03.2025, passed by the Court of learned Judicial Magistrate First Class, Gurugram, whereby respondent No. 2 has been granted concession of regular bail on presentation of challan in the aforementioned case.

3. 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 other accused making allegations against them qua criminal breach of trust and cheating him. After registration of FIR, investigation proceedings were initiated. Apprehending his arrest, respondent No. 2 had filed a petition bearing **CRM-M-15949-2024** before this Court and vide impugned order dated 28.10.2024, he was granted concession of anticipatory bail by this Court. At the time of presentation of challan, respondent No. 2 had moved an application before the learned trial Court and vide impugned order dated 28.03.2025, he has been granted concession of regular bail by observing that he had been granted concession of anticipatory bail by this Court on 28.10.2024. The petitioner, who is originally the complainant of this case, has prayed for cancellation of benefit of anticipatory/regular bail granted to respondent No. 2 on the grounds that he has failed to abide by the terms and conditions of the compromise having arrived at between them which was the sole reason for grant of aforementioned concession of bail to him.

4. It is argued by learned counsel for the petitioner that the anticipatory bail was granted to respondent No. 2 by this Court while taking

into consideration that a settlement had been arrived at between the petitioner and respondent No. 2 and that respondent No. 2 was required to make payment of the amount due to the petitioner in terms of the said settlement. The factum of settlement finds mention in the order dated 28.10.2024 passed in the bail application. It is argued that respondent No. 2 had failed to make payment in terms of the settlement and committed default, which clearly shows that he had no intention to honour the settlement. An amount of Rs.15,00,000/- is still due and payable by respondent No. 2 to the petitioner. Therefore, it is argued that the order granting anticipatory bail, passed by this Court, as well as the order dated 28.03.2025, granting regular bail, to respondent No. 2 are liable to be recalled and the benefit of bail is liable to be withdrawn.

5. In reply, a status report has been filed by respondent No. 1—State, as per which, consequent upon completion of investigation, challan has been presented and the case is at the stage of framing of charge. It is submitted by learned State counsel that the allegations *prima facie* disclose the commission of the offence of cheating by respondent No. 2. It is also submitted that respondent No. 2 has not honoured the agreement executed between the parties.

6. Respondent No. 2 has filed a separate reply submitting therein that no ground for cancellation of bail granted to him is made out as no term or condition of the bail has been violated by him. It is further submitted that the order granting anticipatory bail was not contingent upon any settlement deed. Respondent No. 2 had been granted concession of regular bail by the

learned trial Court on the ground that he had been granted anticipatory bail by this Court. It is also contended that the petitioner, despite having the remedy of filing an application for cancellation of bail before the Sessions Court, has straightaway approached this Court, thereby circumventing the proper legal procedure. Respondent No. 2 has not misused the liberty granted to him by indulging in any other criminal activity. The investigation has been concluded and the challan stands presented. It is not the case of the petitioner that respondent No. 2 has intimidated any witness or tampered with the evidence. These petitions have been filed with intent to misuse the process of law. It is, therefore, argued that the present petitions do not deserve to be allowed.

7. This Court has heard the rival submissions.

8. Before delving into the contentions as raised by learned counsel for the parties, this Court considers 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 ***Myakala Dharmarajam 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.***

9. 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/regular bail as granted to respondent No. 2 on the ground that he had not abided by the terms and conditions of the compromise. However, in the considered opinion of this Court, only because of that reason, the benefit of pre-arrest/regular bail as granted to respondent No. 2 cannot be cancelled since in view of the ratio of law as laid down in the authorities as cited above, it is explicit that order of cancellation of bail can be passed only where the same suffers from any serious infirmities resulting into miscarriage of justice or the same smacks arbitrariness, capriciousness or perversity. It is not the allegation of the petitioner that respondent No. 2 has misused the concession of bail in any other 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/regular bail as granted to respondent No. 2. Accordingly, these petitions are dismissed.

10. Let a photocopy of this order be placed on the file of the connected case.

15.12.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

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