



CRM-M-16746-2025

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16746-2025

Date of decision:07.08.2025

Babar

...Petitioner

V/s

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

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

Mr. Eklavya Darshi, DAG Punjab.

SUMEET GOEL, J.

1. Present petition has been filed under Section 439(2) of Cr.P.C./483(3) of BNSS, 2023 (inadvertently mentioned as 439(2) of BNNS in the prayer clause), seeking setting-aside/cancellation of the regular bail granted to respondent No.2 vide order dated 13.02.2025 (Annexure P-2) passed by the Additional Sessions Judge, SAS Nagar in FIR No.272 dated 21.12.2024 registered for offences punishable under Section 108 of BNS, 2023 at Police Station Balongi.

2. The relevant portion of the order passed by the Additional Sessions Judge, SAS Nagar, reads as under:

“8. Taking into consideration the custody period of the applicant, the application is allowed and the applicant is ordered to be released on bail on her furnishing bail bonds and surety bonds to the satisfaction of the learned Area Magistrate/Duty Magistrate. The copy of the order be also sent to the Area Magistrate/Duty Magistrate for necessary compliance. One copy of the order be also sent to the concerned Jail Superintendent to intimate the applicant-accused. File be consigned to the record after due compliance. Record be returned.”

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3. Learned counsel for the petitioner has iterated that the respondent No.2 has been specifically named in the FIR and there exist clear and unequivocal allegations against him regarding abetment of suicide. Learned counsel has further iterated that respondent No.2 has actively instigated the deceased to take the extreme step. It has been further contended that a suicide note left behind by the deceased which forms a crucial piece of evidence in the present case, has not been taken into consideration by the learned Court below, while passing the impugned order. According to learned counsel, the said suicide note, *prima facie*, establishes the involvement of respondent No.2 in the alleged offence. According to the learned counsel, there are specific and serious allegations of coercion, intimidation and harassment levelled against the respondent No.2. Despite the gravity of these allegations and the presence of substantial material evidence, including the suicide note, the Court below has extended the benefit of bail to respondent No.2 without due appreciation of the facts and circumstances of the case. Thus, it has been argued that the concession of regular bail extended to respondent No.2 vide impugned order deserves to be cancelled.

4. Learned State counsel (on the strength of advance notice) has submitted that a thorough and impartial investigation has been conducted by the investigating agency. However, vide impugned order, the respondent No.2 had moved an application for regular bail before the Additional Sessions Judge, SAS Nagar, which was allowed.



For the peculiar factual *milieu* of the case in hand, this Court does not deem it appropriate to call upon respondent No.2, as the petition is being disposed off in urgent motion hearing.

5. I have heard the learned counsel for the rival parties and have gone through the available records of the case.

6. It would be apposite to refer herein to a judgment passed by this Court titled as ***Dinesh Madan vs. State of Haryana and another*** passed in ***CRM-M-9029-2023***, decided on 17.05.2024; relevant whereof reads as under:-

“17. As an epilogue to above discussion, the following principles emerge:

I. (i) There is a conceptual distinction, between cancellation of bail” & “setting-aside of a bail order”. In a plea seeking “cancellation of bail”; the factors required to be considered are akin to supervening circumstances/events or mis-conduct of accused whereas in a plea seeking “setting-aside of a bail order”; the factors required to be considered are akin to the order in question being unjustified or illegal or not based on relevant consideration(s). In other words, a plea seeking “setting aside of a bail order” is more in the nature of laying challenge to an order granting bail before a superior Court upon merits thereof.

(ii) It would be pragmatic as also desirable, for the cause of ease and clarity, that a plea filed under Section 439 of Cr.P.C., 1973 clearly states as to whether the plea is for “cancellation of bail” or for “setting aside of a bail order.” or on both accounts.

II. Plea seeking cancellation of Regular Bail.

(i) A High Court has power to cancel regular bail granted by itself or by a Sessions Court or by a Magistrate’s Court.

(ii) A Sessions Court has a power to cancel regular bail granted by High Court or by itself or by a Magistrate’s Court. However, the Sessions Court can cancel regular bail granted by High Court only where the accused has violated any condition(s) imposed by the High Court (while granting bail) or on account of such accused having misused liberty granted to him by trying to influence witness(s) or having tried to delay trial by absenting himself or having committed another offence(s) while on bail and other



factors of akin nature. In other words, a Sessions Court can cancel bail granted to an accused by High Court only on account of such like supervening/subsequent events but cannot adjudicate upon veracity of the High Court order (whereby bail was granted to such accused.)

(iii) A Magistrate does have the power to cancel a regular bail granted by him in terms of Section 437(5) of Cr.P.C. 1973. However, a Magistrate does not have the power to cancel regular bail granted by the High Court or Sessions Court except in a situation wherein the accused has violated any condition(s) imposed upon him when granted such bail by the High Court or the Sessions Court.

(iv) In case cancellation of a regular bail granted by the Sessions Court is sought for; such plea ought to be ordinarily filed before the Sessions Court itself. However, since there is concurrent jurisdiction of the High Court as also Sessions Court in terms of Section 439(2) of Cr.P.C. 1973, the filing of such a plea straight away before the High Court is not ipso facto barred. At the same time, it would be expedient that such a plea (filed straight away before the High Court) must show cogent reason(s) for not approaching the Sessions Court in the first instance.

(v) The factors for consideration in a plea for cancellation of a regular bail are whether the accused has misused liberty granted to him by trying to influence witness(s) or has tried to delay trial or has committed another offence(s) while on bail, whether the accused has flouted the cancellation of bail, whether bail was procured by misrepresentation or fraud or concealing relevant material and similar factors of akin nature. There is no gainsaying that above factors are only illustrative in nature as it is not axiomatic to exhaustively enumerate them.

(vi) Where such plea raises ground(s) that bail has been granted on account of misrepresentation of facts or a fraud having been played on Court which has granted bail or concealment of material/relevant facts; it would be expedient that such plea be filed, in the first instance itself, before the Court which had granted bail in question.

(vii) The degree and nature of proof required to be shown by an applicant (seeking cancellation of regular bail) is that of preponderance of probabilities and not one of being beyond reasonable doubt.

xxxx	xxxx	xxxx	xxxx
xxxx	xxxx	xxxx	xxxx

VI. Where a plea made under Section 439(2) of Cr.P.C. 1973 raises grounds regarding “cancellation of bail” as also for “setting aside of bail order”, such plea has to be essentially made before the superior Court.”



7. Indubitably, by way of the present petition, the petitioner seeks to raise grounds for cancellation of regular bail earlier granted to respondent No.2 vide order dated 13.02.2025 passed by the Additional Sessions Judge, SAS Nagar. The principal contention advanced on behalf of the petitioner is that the grant of regular bail to respondent No.2 was primarily premised on the observation that the authenticity and evidentiary value of the suicide note recovered in the present case are matters that can only be determined during the course of trial after some evidence is led by the respective parties. Furthermore, the Court below observed that the fulfillment of the ingredients of Section 108 of BNS, 2023 should also be a matter of trial and the same can only be established, if at all, through cogent and credible evidence. In the instant case, the petitioner has not placed on record any substantive material to demonstrate that respondent No.2 was persistently harassing the deceased or his family members, on account of which the deceased has ended up his life. Furthermore, no documentary or corroborate evidence has been brought forth to substantiate the alleged demand for money or instances of assault or intimidation.

8. Furthermore, there is nothing on record to indicate that respondent No.2 has misused the liberty granted to her or that she has attempted to interfere with the investigation or trial. The bail granted by the Court below reflects due consideration of the relevant factual matrix and legal principles. At this stage, the evidentiary value of the alleged suicide note and the truthfulness of the allegations of the petitioner are matter which fall within the domain of trial. Nothing tangible has been brought on record to show that any complaint/grievance was made/raised before the learned



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trial Court, during the course of trial so far. The absence of any such complaint further casts serious doubts on the case put forth by the petitioner seeking cancellation of bail. Accordingly, it is unequivocal that the unsubstantiated allegations without supporting evidence cannot be said to be a good ground for cancelling the regular bail earlier granted to respondent No.2 by the Court below.

9. Keeping in view the entirety of the facts and circumstances of the case in hand, no ground is made out to cancel the regular bail earlier granted to respondent No.2 vide the impugned order. Therefore, the petition in hand deserves rejection.

Decision

10. As a sequel to the above discussion, the present petition filed under Section 439(2) of Cr.P.C./483(3) of BNSS, 2023 (inadvertently mentioned as 439(2) of BNNS in the prayer clause), seeking cancellation of regular bail order dated 13.02.2025 (Annexure P-2) passed by learned Additional Sessions Judge, SAS Nagar, is dismissed.

11. It, indubitably, goes without saying that nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

August 07, 2025
Ajay

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