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

**CRM-M-19282-2025 (O&M)
Date of decision: 07.04.2025**

State Bank of India

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

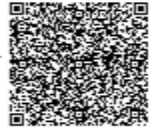
Present: Mr. Anil K. Ahuja, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') read with Section 528 of BNSS for cancellation of anticipatory bail granted to respondent No.2 by learned Sessions Judge, Hisar, vide order dated 27.01.2025 (Annexure P-6), in FIR No.362 dated 10.12.2024 under Sections 409, 420, 467, 468, 471 of the Indian Penal Code, 1860 (for short 'IPC') (*now Sections 316(5), 318(2), 338, 336(3) & 341 of the Bharatiya Nyaya Sanhita, 2023*), registered at Police Station Urban Estate Hisar.

2. Learned counsel for the petitioner, *inter alia*, contends that learned Sessions Judge, while granting anticipatory bail to respondent No.2, has not

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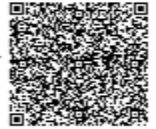


considered the fact that a subsequent departmental investigation was initiated, in which other bank officials were also found to have committed lapses. Further, in the said investigation, it has been found that an amount of Rs.1.64 crore has been fraudulently misappropriated by respondent No.2, who was working as Senior Associate in Clerical cadre. As such, learned Sessions Judge has committed grave error by granting anticipatory bail to respondent No.2 and her custodial interrogation is required to recover the remaining amount, as she has not fully cooperated in the investigation. Therefore, the impugned order (Annexure P-6) is liable to be set aside and the anticipatory bail granted to respondent No.2 deserves to be cancelled.

3. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance.

4. A perusal of the record clearly indicates that as per FIR (*supra*), an amount of Rs.1.20 crore has been allegedly misappropriated by respondent No.2. Further, during the investigation, the Investigating Officer has concluded that respondent No.2 has fraudulently withdrew Rs.1,15,97,065/- and misappropriated the same, however, she has already deposited the said amount. The case of the prosecution is based upon documentary evidence and respondent No.2 is a woman, having two minor children and she has already joined the investigation in terms of the order dated 16.01.2025 (Annexure P-4), vide which *ad interim* anticipatory bail was granted to her by learned Sessions Judge, Hisar. Thereafter, on 27.01.2025, SI Lalit Kumar filed the status report

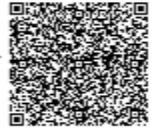
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and informed learned Sessions Judge, Hisar that respondent No.2 has joined the investigation and she has deposited Rs.1,15,97,068/- in the bank, in compliance of the order dated 16.01.2025 (Annexure P-4). The impugned order dated 27.01.2025 (Annexure P-6), granting anticipatory bail to respondent No.2, reads as below: -

“Applicant Bharti Munjal was granted interim bail vide order dated 16.01.2025 and status report was called. SI Lalit Kumar appeared and filed status report. As per status report, the applicant has deposited Rs.1,15,97,068/- in the bank in compliance of order dated 16.01.2025. SI Lalit Kumar has stated in the court that the applicant accused has already joined the investigation in compliance of the earlier order dated 16.01.2025. So, in the facts and circumstances of the case, the interim bail granted vide order dated 16.01.2025 is made absolute and application for anticipatory bail under section 438 of Cr.P.C. moved by applicant-accused is allowed. In the event of arrest, the applicant-accused shall be released on bail on her furnishing bail bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the Investigating officer. The applicant-accused shall comply with the conditions as envisaged under section 438(2) Cr.P.C. The amount deposited by the applicant Bharti Munjal not be released without prior permission from the Court.”

5. As far as the contention raised by learned counsel for the petitioner with regard to requirement of custodial interrogation of respondent No.2 to recover the remaining amount is concerned, it is held that the police is only to investigate the allegations, disclosing a criminal act and it does not have the power and authority to recover money or act as a Civil Court for recovery of the money. In this regard, reliance is placed upon a two Judge Bench of the Hon’ble Supreme Court in ***Lalit Chaturvedi Vs. State of Uttar***



Pradesh, 2024(2) RCR (Criminal) 73.

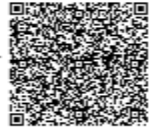
6. Moreover, learned counsel for the petitioner has not been able to indicate any reasons necessitating cancellation of anticipatory bail granted to respondent No.2. Nowhere has it been indicated that the petitioner or the sanctity of the trial will be adversely affected, if she continues to enjoy the concession of bail. The scope of interference by the Courts qua cancellation of bail is rather limited and adjudication upon the alleged facts, does not fall within its purview.

7. 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/her, 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 granting bail or it is evident that the accused is misusing the concession, the Court can consider cancellation.

8. 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***, which is 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;*

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(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.”*

9. 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.

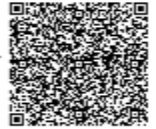
33.3. Where the past criminal record and conduct of the accused is completely ignored while granting bail.

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

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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.”

10. In view of the aforementioned judgments rendered by the Hon’ble Supreme Court, this Court is of the considered view that cancellation of anticipatory bail granted to respondent No.2 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 order dated 27.01.2025 (Annexure P-6) or demonstrate any conduct on the part of respondent No.2, that would warrant interference by this Court.

11. Accordingly, the present petition is dismissed. The impugned order dated 27.01.2025 (Annexure P-6) passed by learned Sessions Judge, Hisar is hereby upheld.

12. All the pending miscellaneous application(s), if any, shall stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

07.04.2025
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No