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

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**CRM-M-22737-2025 (O&M)
Decided on:11.09.2025**

Deepak Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

Coram : Hon'ble Mr. Justice Rajesh Bhardwaj

Present: Mr. U.K. Agnihotri, Advocate,
for the petitioner.

Mr. Sumit Jain, Addl. A.G., Haryana.

Mr. Karan Monga, Advocate,
for respondent no.2.

Rajesh Bhardwaj, J.

CRM-36715-2025

Application is allowed, as prayed for.

Rejoinder to the reply of respondent no.2 is taken on record.

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1. Prayer in the present petition, filed under Section 483(3) of the BNSS, 2023, is for cancellation of anticipatory bail granted to respondent no.2 vide order dated 03.03.2025 by the learned Additional Sessions Judge, Panchkula in a case FIR No.08 dated 13.01.2025, registered under Sections 318(4), 308(2), 61(2) of the BNSS, 2023, at Police Station Sector 7, Panchkula.
2. Succinctly, the facts of the case are that the FIR in question was registered on the complaint of the petitioner, in which it was alleged that he had entered into an agreement to sell dated 04.07.2024 with Amit Mittal for himself and also as GPA of his wife Shinu Mittal (respondent no.2 herein). It was alleged that Amit Mittal and Shinu Mittal were the owners of House No.198, Sector-25, Panchkula and they agreed to sell the same to the complainant vide

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agreement to sell dated 04.07.2024 for a total sale consideration of Rs.3 crores, which included the mortgage amount of Union Bank of India, with which the house in question was mortgaged by both the accused. The agreement to sell dated 04.07.2025 was signed by Amit Mittal on behalf of himself and as GPA holder of his wife Shinu Mittal. The GPA dated 19.06.2024 was duly registered in the office of the Sub Registrar, Panchkula in presence of the witnesses. The complainant paid a sum of Rs.10 lacs through two RTGSes of Rs.5 lacs each to the accused and it was agreed that after receipt of Rs.1.75 crores from the complainant, the accused would hand over possession of the house in question to the complainant as part performance of the agreement to sell dated 04.07.2024 and the balance sale consideration of Rs.1.25 crores was to be paid by the complainant to the accused at the time of execution and registration of the sale deed. It was also agreed that the accused would clear all the outstanding dues and loan etc. against the said house in question and get No Dues Certificate and permission to sell from the HSVP, Panchkula against this property before execution and registration of the sale deed. In compliance of the agreement to sell dated 04.07.2024, the complainant paid Rs.30 lacs through RTGS and Rs.1.35 crores through 4 RTGSes, all dated 25.07.2024 to the accused, however, he came to know that respondent no.2 Shinu Mittal had approached the office of the Estate Officer, HSVP, Panchkula, with an application for not granting permission to sell/transfer the house in question in favour of anybody. The *mala fide* intention of respondent no.2 was surfaced after having received an amount of Rs.1.75 crores and, thereafter, in a well hatched conspiracy, respondent no.2 backed out from execution of the sale deed, whereas the complainant was ready to get the sale deed executed and registered by paying outstanding amount of sale consideration of Rs.1.25 crores. Hence, the request was made to take legal action against the accused. On registration of the FIR, the investigation commenced. Apprehending arrest,

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respondent no.2 approached the Court of learned Additional Sessions Judge, Panchkula, for grant of concession of anticipatory bail, which has been allowed vide its order dated 03.03.2025. Hence, aggrieved against the said order, the petitioner is before this Court by way of filing the present petition for cancellation of the anticipatory bail granted to respondent no.2.

3. Learned counsel for the petitioner has vehemently contended that respondent no.2 and her husband are joint owners of the property in dispute, regarding which husband of respondent no.2 had entered into an agreement to sell with the petitioner. It is submitted that respondent no.2 had executed a General Power of Attorney in favour of her husband regarding her share in the property in dispute and, thus, it is her husband who had entered into an agreement to sell on his behalf and as GPA on behalf of his wife, i.e. respondent no.2. He submits that the property in dispute had a bank loan of Rs.4,11,96,193/- and the petitioner had paid the earnest money of Rs.1,75,00,000/- in addition to the outstanding bank loan at the time of execution of the agreement to sell. However, before the sale deed could have been executed, respondent no.2, in a clandestine manner, had filed an application before the Estate Officer, HSVP, Panchkula, praying for not to grant permission for transfer of the property in favour of the petitioner. It is submitted that the said application by respondent no.2 has only been filed in order to frustrate execution of the sale deed and to usurp the amount already paid by the petitioner. It is submitted that respondent no.2, in connivance with her co-accused, has dishonestly and deliberately cheated and defrauded the petitioner. He submits that the learned Additional Sessions Judge, Panchkula had failed to appreciate the same that there was a *mens rea* on the part of respondent no.2 and, thus, has illegally granted anticipatory bail to respondent

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no.2 only on the ground that she was not a signatory to the agreement to sell, however, in actual, her husband signed it on behalf of himself and also on behalf of respondent no.2 being her GPA holder.

4. On the other hand, learned counsel for respondent no.2 has submitted that respondent no.2 has a dispute with her husband and her husband tried to misuse the GPA dated 19.06.2024 which was given to him only for the purpose of management of the properties and not for sale etc. He further submits that the agreement to sell, as alleged, is a fake document and has only been forged and fabricated to defeat the rights of respondent no.2 and, thus, the learned Additional Sessions Judge, Panchkula, has rightly granted concession of anticipatory bail to her as the dispute, if any, involved between the parties was of civil nature.

5. However, learned State counsel has supported the arguments raised by the learned counsel for the petitioner and prays for cancellation of the anticipatory bail granted to respondent no.2. He submitted that the offences committed by respondent no.2 are serious in nature and has relied upon the judgment of Hon'ble the Supreme Court rendered in the case of **Ajwar vs. Waseem and another**, 2024(3) RCR (Crl.) 185 and, thus, submitted that the present petition deserves to be allowed.

6. After hearing learned counsel for the parties and perusing the available record, it is deciphered that the petitioner has been cheated of Rs.1.75 crores and also of the loan amount which he had allegedly deposited in the loan account of the accused, in a well planned manner by hatching a conspiracy by respondent no.2 in collusion with other co-accused. Respondent no.2 initially executed and registered GPA dated 19.06.2024 in favour of her husband Amit Mittal for the purpose of sale/transfer etc. of the house in question and when her husband Amit Mittal had entered into the agreement to sell dated 04.07.2024 to sell the said house on behalf of himself and also as GPA of

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respondent no.2 and also received an amount of Rs.1.75 crores and Rs.4,11,96,193/- in their loan account from the petitioner, respondent no.2, while hatching conspiracy with the other co-accused, in a very clever move and with an ulterior motive to cheat the petitioner, got the GPA dated 19.06.2024 cancelled and now she is taking the excuse that she had only executed the aforesaid GPA in favour of her husband only for management of her properties and not for sale/transfer etc. The case would have to be on different footings if either of the parties had refused for performance of the agreement to sell but here is a case where the entire conspiracy has been hatched in a very planned manner while firstly executing the GPA to sell the house in question and later on withdrawing the same in a very clever move in order to cheat the petitioner. It has also come on record that possession of the house in question has also been delivered to the petitioner as part performance of the agreement to sell dated 04.07.2024 but despite that, in a very clandestine manner, respondent no.2 moved an application before the HSVP, Panchkula for not granting permission to transfer the property in favour of anybody only for the purpose of frustrating execution of sale deed in favour of the petitioner. Thus, keeping in view the gravity and seriousness of the offences, I find force in the contentions raised by the learned counsel for the petitioner.

7. Hon'ble Supreme Court in the case of **Pakar Ram vs. State of Rajasthan**, 1985 AIR Supreme Court 969, while discussing the scope of grant of anticipatory bail and regular bail, has relied upon the decision of the Constitution Bench in **Shri Gurbaksh Singh Sibbia & Ors. Vs. State of Punjab**, 1980(2) SCC 565 and held as under:-

*“6. The decision of the Constitutional Bench in **Shri Gurbaksh Singh Sibbia & Ors. v. State of Punjab**, 1980(2) SCC 565, AIR 1980 Supreme Court 1632 clearly lays down that 'the distinction between an ordinary order of bail and an order of anticipatory*

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bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore effective at the very moment of arrest.' Unlike a post-arrest order of bail, it is a pre-arrest legal process which directs that if the person in whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. Direction under Sec. 438 is intended to confer conditional immunity from the touch as envisaged by Sec. 46 (1) or confinement. In para 31, Chandrachud, CJ clearly demarcated the distinction between the relevant considerations while examining an application for anticipatory bail and an application for bail after arrest in the course of investigation, Says the learned Chief Justice that 'in regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the appellant on bail in the event of his arrest' would generally be made. It was observed that 'it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond.' Some of the relevant considerations which govern the discretion, noticed therein are the nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension. that witnesses will be tampered with and "the larger interests of the public or the State", are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail.' caution was voiced that 'in the evaluation of the consideration whether the applicant is likely to abscond, there can be no presumption that the wealthy and the mighty will submit

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themselves to trial and that the humble and the poor will run away from the course of justice, and more than there can be a presumption that the former are not likely to commit a crime and the latter are more likely to commit it.”

8. Hon’ble the Supreme Court, in another judgment rendered in the case of **Kanwar Singh Meena vs. State of Rajasthan and another**, 2013(4) SCC(Cri) 614, while discussing the powers of High Court and Court of Sessions regarding bail, has held as under:-

“10. Thus, Section 439 of the Code confers very wide powers on the High Court and the Court of Sessions regarding bail. But, while granting bail, the High Court and the Sessions Court are guided by the same considerations as other courts. That is to say, the gravity of the crime, the character of the evidence, position and status of the accused with reference to the victim and witnesses, the likelihood of the accused fleeing from justice and repeating the offence, the possibility of his tampering with the witnesses and obstructing the course of justice and such other grounds are required to be taken into consideration. Each criminal case presents its own peculiar factual scenario and, therefore, certain grounds peculiar to a particular case may have to be taken into account by the court. The court has to only opine as to whether there is prima facie case against the accused. The court must not undertake meticulous examination of the evidence collected by the police and comment on the same. Such assessment of evidence and premature comments are likely to deprive the accused of a fair trial. While cancelling bail under Section 439(2) of the Code, the primary considerations which weigh with the court are whether the accused is likely to tamper with the evidence or interfere or attempt to interfere with the due

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course of justice or evade the due course of justice. But, that is not all. The High Court or the Sessions Court can cancel bail even in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant materials 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. Such orders are against the well recognized principles underlying the power to grant bail. Such orders are legally infirm and vulnerable leading to miscarriage of justice and absence of supervening circumstances such as the propensity of the accused to tamper with the evidence, to flee from justice, etc. would not deter the court from cancelling the bail. The High Court or the Sessions Court is bound to cancel such bail orders particularly when they are passed releasing accused involved in heinous crimes because they ultimately result in weakening the prosecution case and have adverse impact on the society. Needless to say that though the powers of this court are much wider, this court is equally guided by the above principles in the matter of grant or cancellation of bail.

9. The aforesaid judgment rendered in **Kanwar Singh Meena's case (supra)** has been followed by Hon'ble the Supreme Court in the case of **Myakala Dharmarajam & Ors. Etc. vs. State of Telangana & Anr., 2020(1) RCR (Criminal) 540** while holding that it is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice and 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

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of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail.

10. Weighing the facts of the case on the anvil of the law settled, it is apparent that the complicity of respondent no.2 has been *prima facie* established. The investigation is at its threshold and continued release of respondent no.2 on anticipatory bail would scuttle the ongoing investigation.

11. In view of overall attending facts and circumstances of the present case discussed above, the present petition is hereby allowed and the order dated 03.03.2025 passed by the learned Additional Sessions Judge, Panchkula, granting anticipatory bail to respondent no.2 is hereby set aside.

12. Nothing said herein shall be construed as an expression of opinion on the merits of the case.

September 11, 2025
vinod*

(Rajesh Bhardwaj)
Judge

Whether Speaking/Reasoned: NO/YES
Whether Reportable: NO/YES