



CRA-S-2102-2024

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

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CRA-S-2102-2024

Date of decision: 29.07.2025

Harish Kumar

....Appellant

V/s

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Raj Kumar Chandana, Advocate for the appellant.

Mr. Gurmeet Singh, AAG Haryana.

Mr. Arnav Ghai, Advocate for the respondent No.2.

SUMEET GOEL, J. (Oral)

1. Present appeal has been filed under Section 14-A of the Scheduled Caste & Scheduled Tribes (Prevention of Atrocities) Act, 1989, seeking setting-aside/cancellation of the regular bail granted to respondent No.2 vide order dated 29.04.2024 passed by the Additional Sessions Judge, Sonapat in FIR No.84 dated 26.02.2024 registered for offences punishable under Sections 323, 342, 384, 364-A, 506 and 34 of IPC and Section 3(1)R, 3(I)S, 3(2) sub section (va) of SC and ST Act at Police Station City Sonapat.
2. The relevant portion of the order passed by Additional Sessions Judge, Sonapat, reads as under:

“Hence, without commenting anything on the merits of the case and in view of the above discussion, the application for regular bail moved on behalf of applicant-accused is allowed and he is ordered to be released on bail on furnishing bail bonds in the sum of Rs. 1,00,000/- with one surety in the like amount to the satisfaction of this court. The applicant shall comply with the following terms and conditions:-

- i. That he shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*



ii. That he shall not leave India without prior permission of the Court.

8. However, nothing observed in this order shall be construed as an opinion on the merits of the case. File be attached with remand papers, after due compliance.”

3. Learned counsel for the appellant has iterated that the Court below has failed to appreciate the material facts and the gravity of the offence and proceeded to pass an order in favour of respondent No.2 without due consideration of the serious nature of the allegations. Learned counsel has further iterated that the respondent No.2 after being released on bail started threatening the appellant and pressurized the appellant to withdraw the case or enter into a compromise. According to learned counsel, the respondent No.2 allegedly issued threats on 07.03.2024 and 15.04.2024 respectively, stating that the appellant and his entire family would face fatal consequences if the matter is not settled which amounts to interference with the administration of justice warranting immediate cancellation of bail. Furthermore, the respondent No.2 is persistently harassing the appellant and the prosecution witnesses, issuing open threats and attempting to influence them through fear. It has been further argued that the impugned order has been passed in a mechanical manner without application of mind. Thus, keeping in view the gravity of offence, cancellation of the regular bail granted to the respondent No.2 is entreated for.

4. Learned counsel appearing for the State has submitted that the respondent No.2 is the principal conspirator and kingpin behind the commission of the present offence. It has been further submitted by the learned State counsel that the material on record indicates that respondent No.2 was harbouring a grudge against the appellant due to a financial



dispute. Acting upon this animosity, respondent No.2 in active connivance with co-accused, orchestrated the abduction of the appellant, subjected him to physical assault and further humiliated him by using caste based derogatory language thereby attracting offences under the SC/ST Act. According to him, a thorough and impartial investigation has been conducted by the investigating agency. However, on 29.04.2024, the respondent No.2 had moved an application for regular bail before the Additional Sessions Judge, Sonipat which was allowed vide order dated 29.04.2024.

5. Learned counsel appearing for respondent No.2 has iterated that the respondent No.2 has been falsely implicated in the present case. According to learned counsel, the allegations levelled in the FIR are entirely baseless and fabricated, as no such incident, as alleged, ever took place. It was further submitted that the offences invoked under the SC/ST Act are not prima facie attracted inasmuch as the alleged occurrence did not take place in any public view or public place as required under the said Act. Moreover, it is submitted that the regular bail was granted to the respondent No.2 in the specific factual matrix and circumstances of the case and the respondent No.2 has neither violated the bail conditions nor misused the liberty granted. Thus, dismissal of the instant petition is sought for.

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

7. 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.”

8. Indubitably, the present appeal seeks to raise grounds for cancellation of regular bail earlier granted to respondent No.2 vide order dated 29.04.2024 passed by the Additional Sessions Judge, Sonapat. The principal contention advanced on behalf of the appellant is that the grant of regular bail to respondent No.2 was primarily on account of the fact that the veracity of the allegations pertaining to extortion remains unascertained at this preliminary stage. Furthermore, the Court below observed that such allegations can only be substantiated, if at all, during the course of trial upon the adducing of cogent evidence by the prosecution. Moreover, the injuries sustained by the complainant are concerned, a perusal of MLR reveals that



although the appellant suffered 13 injuries, all were opined to be simple in nature. A perusal of the impugned order further reflects that it is the case of the appellant that the FIR was lodged against respondent No.2 out of personal animosity and mala fides which fact remains unproved before the Court below and the Court observed that the same is to be adjudicated upon during the course of trial based on the evidence. In the instant case, no document(s) has been placed on record by the appellant to show that the respondent No.2 has been persistently harassing the appellant and his family and exerting undue pressure to settle the matter on 07.03.2024 and 15.04.2024 respectively. However, it is evident from the record that the impugned order granting regular bail to respondent No.2 was passed on 29.04.2024 whereas the allegations regarding harassment purportedly occurring on 07.03.2024 and 15.04.2024 were well within the knowledge of the appellant at the time when the said order passed. Despite being aware of these alleged incidents, no such grievance appears to have been raised before the Court below during the bail proceedings which significantly undermines the credibility of the assertion of the appellant and rendering them prima facie an afterthought. Furthermore, no material has been placed on record to substantiate that the respondent No.2 has assaulted the appellant or his family members. The lack of any material raises questions about the credibility of the allegations. The absence of these elements weakens the case of the complainant. Moreover, it has been brought to the notice of this Court, that in the present case challan was presented on 08.07.2024, whereinafter the charges were framed on 13.05.2025 and the trial proceeded. Total 22 prosecution witnesses have been cited and out of which none has been examined. Nothing tangible has been brought on record to show that



any complaint/grievance was made/raised before the learned 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 appellant 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 appeal in hand deserves rejection.

Decision

10. As a sequel to the above discussion, the present appeal in hand, seeking cancellation of regular bail order dated 29.04.2024 passed by learned Additional Sessions Judge, Sonapat, 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

July 29, 2025
Ajay

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