

2025:PHHC:047205



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

202

**CRM-M No.38240 of 2021
Date of decision: 05.04.2025**

Nitin Tawatia

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajesh Lamba, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

Dr. Deipa Singh, Advocate,
for respondent No.2.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 439(2) of the Code of Criminal Procedure seeking cancellation of benefit of pre arrest bail as granted to respondent No.2 vide order dated 18.08.2021 passed by the Court of learned Additional Sessions Judge, Faridabad in case arising out of FIR No.429 dated 04.08.2020 registered under Sections 420, 406, 467, 468, 471, 474, 477-A, 506, 34 and 120-B of IPC at Police Station Ballabhgarh City, District Faridabad.

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of order

2025:PHHC:047205



passed by Chief Judicial Magistrate, Faridabad on a complaint filed under Section 156(3) read with Section 200 of Code of Criminal Procedure by the complainant on the allegations that he was married with accused Namrata Dalal on 03.03.2014. The respondent No.2-Chattar Singh Dalal is real uncle of accused Namrata Dalal. Since the latter was residing with the respondent No.2 since her childhood, all the marriage ceremonies and functions were held at the house of respondent No.2. After the marriage, the accused Namrata Dalal convinced the complainant to stay with the respondent No.2 on the pretext of continuing her further studies and by further representing that his children were staying abroad and also inducing the complainant to start a business of stone crushing under the guidance of the respondent No.2 and to earn a bag amount of money. The respondent No.2 also persuaded and convinced the complainant to venture into stone crushing business. The complainant was further induced to part with huge amount of money on the pretext of starting a business of stone crushing with the respondent no.2. On being induced by the respondent No.2 and accused Namrata Dalal, the father of the complainant even sold his landed property. An amount of Rs.2,25,00,000/- was given to respondent No.2 and co-accused Namrata Dalal. Later on, the complainant realized that he had been duped of his money by the respondent No.2 and co-accused. After registration of FIR, investigation proceedings were initiated. The respondent No.2 moved application for grant of anticipatory bail. The

2025:PHHC:047205



respondent No.2 was given interim bail and was directed to join the investigation and vide order dated 18.08.2021, the interim order was made absolute.

3. It is argued by learned counsel for the petitioner that the impugned order whereby the respondent No.2 was extended benefit of anticipatory bail is liable to be set aside as this benefit had been availed by the respondent No.2 by concealment of material facts and by misleading the Court. The respondent No.2 has duped the petitioner of huge amount of money and has committed serious offences of committing forgery. His custodial interrogation was must for conducting thorough investigation in the matter but due to grant of pre arrest bail, the same could not be conducted. That apart, recovery of two cheque books issued in the name of the petitioner, three cheques and some account books is to be effected from the respondent No.2 and due to the fact that his custodial interrogation was not ordered, the prosecution as well as the petitioner are deprived of proper investigation and to get effected recovery of the aforementioned cheque book etc. which was material for the purpose of the case. With these broad submissions, it is argued that the impugned order is liable to be set aside, the petition deserves to be allowed and the bail of the respondent No.2 is liable to be cancelled.

4. Learned Assistant Advocate General, Haryana has argued that the respondent No.2 has not misused the concession of bail and hence, no ground has been made out for allowing the petition.

2025:PHHC:047205



5. Reply has been filed by respondent No.2. It is submitted by learned counsel for respondent No.2 that the petitioner has either failed to cite any plausible reason or to produce any material on record to show that the respondent No.2 has tried to interfere with the course of justice, tampered with any evidence or has threatened the witnesses. He has vehemently argued that none of the grounds requisite for cancellation of bail is established, therefore, the petition is liable to be dismissed.

6. This Court has considered the rival submissions.

7. Before delving into the contentions as raised by learned counsel for the parties, I consider 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,

2025:PHHC:047205



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.

8. 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 Bharatiya Nagarik Suraksha Sanhita, 2023 (which is pari materia with Section 439(2) of Cr.P.C.) 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. In the instant case, the petitioner who is the lodger of above mentioned FIR No.429 has sought cancellation of concession of pre arrest bail as granted to the respondent No.2 on the ground that he secured the said order by concealment of certain material facts and further on the ground that recovery of some cheques and account books is to be effected from him. However, after hearing the contentions as raised in this regard and on going through the record, I am of the considered opinion that there is nothing on record to suggest that any material fact had been concealed by the respondent No.2 or he has violated the terms and conditions for grant of bail. On a perusal of the

2025:PHHC:047205



documents placed on record, it is revealed that the Court of learned Additional Sessions Judge, Faridabad had made a detailed discussion and passed an order on 15.07.2021 thereby directing the respondent No.2 to join investigation while observing that his custodial interrogation was not required and dispute between the parties was matrimonial and due to some financial transactions. Then the order dated 15.07.2021 was made absolute on 18.08.2021 by making the following observations:

“Today the case was fixed for order. The Investigating Officer had submitted the status report in all the three cases and mentioned that the applicants did not hand over the two cheque-books of the complainant and also mentioned that they also did not co-operate in the investigation.

2. Arguments of learned counsel for applicants and learned Public Prosecutor for the State assisted by learned counsel for complainant heard.

3. The applicants were released on interim anticipatory bail vide order dated 15.7.2021 and in the bail order, it was observed by the undersigned that an amount of ₹3,56,00,000/- was allegedly given by the complainant to applicants in cash but no cash receipt was produced by the complainant. The main dispute was with regard to the custody of two cheque-books in possession of the applicants. It was also observed by this Court that regarding the said two cheque-books, some criminal complaints under section 138 of Negotiable Instruments Act were pending. The fact whether those cheques were signed by the complainant or by the applicants shall be decided by the Court where the complaints under section 138

2025:PHHC:047205



of Negotiable Instruments Act are pending for adjudication. Joining of an accused in the investigation does not mean that the accused is supposed to confess his guilt before the police. For the sake of arguments if it is presumed at this stage that the two alleged cheque books of the complainant are in custody of the applicants and the applicants misuse the cheque books, in that case they shall have to face the consequences. Regarding some cheques of those two cheque books, criminal complaints are pending against the complainant. After passing of the interim anticipatory bail order dated 15.7.2021, the applicants had joined the investigation on more than two occasions. In these circumstances and without commenting on the merits of the case, I am of the considered opinion that no ground is made out to dismiss the bail application filed by the applicants. The main allegation levelled against the applicants that they have misused two cheque books of the complainant and have grabbed the amount of ₹3,56,00,000/-, for which no receipt was produced by the complainant, shall be decided during the course of trial. With these observations, the interim anticipatory bail order dated 15.7.2021 is hereby made absolute. However, the applicants are directed to comply with the conditions as mentioned under section 438 (2) Cr.P.C. and to appear before the Investigating Officer as and when required by him. A copy of this order be placed on other connected bail applications titled as Sunita Jakhar Vs. State of Hr. CIS No.2843/2021 and Krishna Dalal Vs. State of Hr. CIS No.2844/2021. File after due compliance be consigned to the records.”

9. On a perusal of the above, it is explicit that the learned Additional Sessions Judge, Faridabad while passing the impugned order

2025:PHHC:047205



had made a detailed discussion including the fact that the alleged cheque books and cheques were not recovered. This order cannot be stated to be suffering from any serious infirmity resulting into miscarriage of justice. It is not made out that the same smacks arbitrariness, capriciousness or perversity. It is also not even made out that the respondent No.2 has misused the liberty of bail granted to him by violating terms and conditions of bail during the course of investigatoin proceedings. In view of this discussion, this Court finds no reason to cancel the benefit of pre arrest bail to respondent No.2. Accordingly, the petition is dismissed.

05.04.2025
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No