

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

CRM-M-31341-2024
Reserved on: 17th March, 2025
Pronounced on: 26th March, 2025

Kayum Khan

...Petitioner

Versus

State of Haryana and others

...Respondentss

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nafees Ahmed, Advocate for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Mr. Ashish Grewal, Advocate for respondents No.2 to 3.

MANISHA BATRA, J :-

The instant petition has been filed by the petitioner under Section 439(2) of Code of Criminal Procedure making prayer for setting aside the orders dated 03.06.2024 and 07.06.2024 passed by the Court of learned Sessions Judge, Yamuna Nagar in case arising out of FIR No. 132 dated 08.05.2024 registered under Sections 323, 34 and 506 of IPC (Sections 325 and 326 added later on) at Police Station Sadar Sadhaura, District Yamuna Nagar, whereby respondents No.2 and 3 were ordered to be released on regular bail.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the allegations that the on 08.05.2024, respondents No.2 and 3 along with co-



accused Teja had opened an attack upon the complainant-petitioner, when he was going towards his poultry farm on his motor bike. He had raised clamour, which attracted other persons, on seeing whom, the assailants had fled after extending threats to kill him. He also alleged that accused Sultan was carrying a pistol. After registration of FIR, investigation proceedings were initiated. Apprehending their arrest, the respondents No.2 and 3 moved applications for grant of pre-arrest bail before the learned Sessions Judge, Yamuna Nagar, which were allowed vide orders dated 03.06.2024 and 07.06.2024.

3. The present petitioner is aggrieved by this order and has made prayer for setting aside the same.

4. It is argued by learned counsel for the petitioner that while passing the impugned order, the learned Sessions Judge ignored the fact that the offences under Sections 325 and 326 of IPC had been added during course of investigation . Respondents No.2 and 3 along with the co-accused had struck blows with iron rod on the person of the petitioner and had caused as many as six injuries including grievous injuries on his person. Keeping in view the nature of the attribution made to him, respondents No.2 and 3 did not deserve to be extended benefit of pre-arrest bail but this fact was not taken into consideration by learned Sessions Court. Therefore, it is argued that impugned order be set aside, petition be accepted and the benefit of anticipatory bail as granted to the petitioner, be withdrawn.

5. Respondent No.1 has filed reply. Learned Deputy Advocate General, Haryana has affirmed the fact that respondents No.2 and 3 had been booked for commission of offences punishable under Sections 323, 325 and



326 of IPC on account of causing simple as well as grievous injuries to the petitioner. It is further submitted that no information regarding violation of any term and condition of bail as granted to respondents No.2 to 3 has been given by the petitioner and it is, therefore, urged that the petition does not deserve to be allowed.

6. Reply has been filed by the respondents No.2 and 3. It is submitted therein and learned counsel has argued that there are general allegations against them. No specific injury had been attributed to them. Learned Sessions Judge had passed a well reasoned order. The terms of grant of bail have not been violated at all by respondents No.2 and 3. No ground for allowing the petition is made out. It is, hence, urged that the same is liable to be dismissed.

7. Rival submissions of the parties have been heard at considerable length.

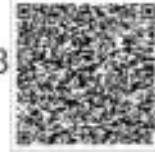
8. At the outset, this Court considers it proper to mention that the well established principles governing the grant of bail are that the Court should consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence and likelihood of fleeing justice. Simultaneously, the principle governing the cancellation of bail is that such cancellation requires cogent and overwhelming circumstances and the same can be revoked, if the order granting bail has ignored relevant material available on record. The Hon'ble Apex Court in an authoritative pronouncement cited as *State through Delhi Administration v. Sanjay Gandhi, AIR 1978 Supreme Court 961*, had observed the cancellation of bail necessarily involves review of a decision



already made and could by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial. It is also well settled that the cancellation of bail is altogether different from an order of rejection of bail. In ***Dolatram v. State of Haryana, (1995) 1 SCC 349***, the Hon'ble Supreme Court had observed that cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail, already granted, some of which are interference or attempt to interfere with the due course of administration of justice or evasion of attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. It was held that the satisfaction of the Court, on the basis of material placed on the record or possibility of the accused absconding is yet another reason justifying the cancellation of bail. It was further observed that bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

9. Reliance can also be placed upon ***Myakala Dharmarajam v. The State of Telangana, (2020) 2 SCC 743*** wherein the Apex Court has made the following observations:-

“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. 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.”

10. In ***Imran vs. Mr. Mohammed Bhava and another, 2022 SCC Online 496***, the Hon’ble Supreme Court observed that bail can always be revoked if the relevant material on record, gravity of the offence or its societal impact have not been considered by the Lower Court. Where bail is granted in a mechanical manner, the order granting bail is liable to be set aside. Similar proposition of law had been laid down in ***Dataram Singh v. State of Uttar Pradesh, (2018) 3 SCC 22*** and ***Central Bureau of Investigation, Hyderabad v. Subramani Gopalakrishnan, (2011) 5 SCC 296***.

11. The proposition of law as laid down in the above discussed cases is that the discretion to cancel bail is to be exercised by the Court only if the order qua grant of bail smacks of arbitrariness, capriciousness or perversity or on being satisfied on the basis of record that the accused has actually misused such liberty. In the instant case, the respondents No.2 and 3 have been booked for commission of offences punishable under Sections 323, 325 and 326 of IPC, which are triable by Magistrate. The respondents No.2 and 3 had surrendered before the Court and were ordered to be released on 03.06.2024 and 07.06.2024. It is not the case of the petitioner that they had misused any term and condition for grant of bail. After being released on bail, they are not shown to have committed any such act or conduct amounting to evasion or attempt to evade the due course of justice or abuse the concession of bail granted to them.

12. The learned trial Court had passed order for grant of bail



keeping in view the nature of accusations, the severity of the punishment and the period of his incarceration. Neither it is pleaded by the petitioner in the petition nor it is made out from the record that there was any reasonable apprehension of tampering with the evidence or extension of threat on the part of the respondents No.2 and 3 against the petitioner, if they are allowed to remain on bail. No cogent or overwhelming circumstance required for cancellation of bail is made out from the allegations as levelled by the petitioner. The grounds as taken in the petition seeking cancellation of bail do not enumerate the principles which have to be considered for revocation of such benefit. Having regard to all the above discussed facts and circumstances, the nature of the allegations and accusations as levelled against the respondents No.2 and 3, this Court is of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

13. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

26th March, 2025
Parveen Sharma

- | | | |
|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |