

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

**CRM-M-37273-2022 (O&M)
Reserved on: 04.08.2025
Pronounced on : 07.08.2025**

Jagdeep

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. A. S. Lamba, Advocate
for the petitioner. (Through VC).

Mr. Apoorv Garg, Addl. A.G., Haryana.

None for respondents No. 2 to 4.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 439(2) read with Section 482 of Cr.P.C. by the petitioner, who is complainant in case arising out of FIR No. 497 dated 30.06.2021, registered under Sections 147, 148, 149, 323, 380, 452, and 506 of IPC and Section 25 of the Arms Act, 1959 at Police Station Hisar Sadar, District Hisar, making prayer for cancellation of benefit of pre-arrest bail as granted to respondents No. 2 to 4 by the Court of learned Additional Sessions Judge, Hisar vide order dated 05.04.2022.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR has been registered on the basis of the statement recorded by the petitioner/complainant alleging

that on 28.06.2021, respondents No. 2 to 4/accused along with some other persons had formed membership of an unlawful assembly and in prosecution of common object thereof had opened an assault upon the complainant after criminally trespassing into his house and had also caused injuries to him, criminally intimidated him and had committed theft of an amount of Rs. 1.50 Lakhs from his house. The respondents No. 2 to 4 had moved an application for grant of pre-arrest bail, which had been allowed, vide impugned order dated 05.04.2022.

3. It is argued by learned counsel for the petitioner that the impugned order is liable to be reversed and the benefit of bail granted to respondents No. 2 to 4 is liable to be cancelled, because of the fact that all three of them had caused multiple grievous injuries to the petitioner. The offences under Sections 326 and 307 of IPC were not invoked. Offences under Section 380 of IPC and Section 25 of the Arms Act were also deleted. It was only after grant of bail that the offences under Sections 326 and 307 of IPC were added. It is submitted that after availing benefit of bail, the respondents/accused had been avoiding appearance before the learned trial Court intentionally and non-bailable warrants had been issued against them. They have misused the concession of bail so granted. With these broad submissions, it is argued that the petition deserves to be allowed, the impugned order is liable to be set aside and the benefit of pre-arrest bail granted to respondents No. 2 to 4 is liable to be cancelled.

4. Reply has been filed by the respondent-State. Learned Additional Advocate General, Haryana has not raised any serious objection against the impugned order granting concession of pre-arrest

bail to respondents No. 2 to 4.

5. Respondents No. 2 to 4 had initially appeared in response to the notice issued to them but none appeared on their behalf on the date of reserving the order and no reply has been filed on their behalf.

6. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the material placed on record carefully.

7. Before delving into the contentions as raised by learned counsel for the petitioner as well as learned State counsel, 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, 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 439(2) 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. The petitioner in this case has sought cancellation of bail of respondents No. 2 to 4 on the ground that the allegations against them are serious in nature and further that they have misused the liberty of bail so granted. So far as the gravity of the nature of allegations against them is concerned, the trial Court while deciding the prayer of the respondents No.2 to 4 for grant of pre-arrest bail is shown to have taken into consideration the contentions raised by the parties. These allegations levelled by the petitioner/complainant have already been taken into consideration by learned Additional Sessions Judge while granting benefit of pre-arrest bail to respondent Nos. 2 to 4. It is not the version of the petitioner that respondents No. 2 to 4 are either influencing the course of investigation, or tampering with evidence (including intimidating witnesses). A perusal of the impugned order would also reveal that offences under Sections 326 and 307 of IPC were invoked before grant of pre-arrest bail to respondents No. 2 to 4 and the same have been taken into consideration by the trial Court. If the accused persons are avoiding their appearance before the learned trial Court, it is well within its power to take recourse to law and cancel the bail granted to the accused persons.

Keeping in view the discussion as made above, no case has been made out to cancel the benefit of pre-arrest bail granted to respondents No. 2 to 4. Hence, this petition is dismissed.

07.08.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

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