



CRM-M-38062-2024

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

**CRM-M-38062-2024
Reserved on: 1st April, 2025
Pronounced on: 24th April, 2025**

Narinder Pal

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Balram Singh, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

Mr. Jagjit S. Johal, Advocate for respondents No. 2 and 3.

MANISHA BATRA, J :-

The instant petition has been filed under Section 480(5) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') corresponding to Section 439(2) of Cr.P.C., seeking cancellation of benefit of bail granted to the respondents No.2 and 3 in case arising out of FIR No. 50 dated 10.05.2024 registered under Section 420 read with Section 34 of IPC at Police Station Haryana, District Hoshiarpur, by the Court of learned Additional Sessions Judge, Hoshiarpur.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered against the respondents No. 2 and 3 on the basis of complaint lodged by the present petitioner making allegations that respondents No.2 and 3 was running a



cable network business. A cable connection was installed in the house of the complainant by them. The monthly bills were collected by respondent No.2, who represented to the complainant in August, 2023 that the respondent No.3 was owner of the cable business and wanted to quit the same and offered the petitioner to buy the same. The respondent No.3 during discussion told the complainant that there were 1100 consumers of cable connection. A deal was struck for purchase of the cable business from respondent No.3 and an amount of Rs. 10,00,000/- was given by three different cheques whereas an amount of Rs. 24,00,00/- was also given. When the business was handed over to the petitioner, he came to know that the low rate connections were sold to him at higher rates by respondents No.2 and 3 and even the number of the connections was also much lesser than that represented by respondents No.2 and 3 and he had been cheated. As such, he lodged a complaint on the basis of which aforementioned FIR was registered. The respondents No.2 and 3 moved application for grant of anticipatory bail, which was allowed vide order dated 17.05.2024.

3. It is argued by learned learned counsel for the petitioner that the impugned order dated 17.05.2024 thereby granting benefit of anticipatory bail to respondents No.2 and 3 is liable to be set aside as while passing the impugned order, the learned Additional Sessions Judge did not consider the facts in a proper manner. The allegations against the respondents No.2 and 3 were serious in nature and required conducting of thorough investigation. The custodial interrogation of respondents No.2 and 3 was must. No ground for grant of anticipatory bail was made out. The principles of natural justice have been violated. It is, therefore, urged that the petition deserves to be



allowed.

4. Reply has been filed by respondent No.1-State. Learned State counsel has argued that the petition is liable to be dismissed as there is nothing on record to suggest that the respondents No.2 and 3 have violated the terms and conditions for grant of bail.

5. The respondents No.2 and 3 have filed a joint reply taking the similar pleas as taken by respondent No.1.

6. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

7. 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 principles governing the cancellation of bail are 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 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.

8. 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.”

9. In the judgment dated 22.04.2022 passed in Criminal Appeal No.658 of 2022 (arising out of SLP (Crl.) No.27 of 2022) titled as ***Imran v.***



Mr. Mohammed Bhava and another, 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 observations were made 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.***

10. 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, respondents No.2 and 3 have been booked for commission of offence punishable under Section 420 read with Section 34 of IPC, which are triable by the Magistrate. They were granted benefit of pre-arrest bail on 17.05.2024. They joined the investigation. There is nothing on record to suggest that they have misused either of the terms and conditions for grant of bail. They are also not shown to have committed any such act or conduct amounting to evasion or attempt to evade the due course of justice or abuse of the concession of bail granted to them.

11 The learned Additional Sessions Judge had extended benefit of pre-arrest bail to respondents No.2 and 3 by passing a detailed order and by observing that the custodial interrogation of respondents No.2 and 3 was not required. It is neither pleaded in the petition nor it is made out from the



record that there is any reasonable apprehension of respondents No.2 and 3 tempering with the evidence or extending threat to the petitioner if they are allowed to remain on bail. No cogent or overwhelming circumstances required for cancellation of bail are made out from the allegation 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.

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

[MANISHA BATRA]
JUDGE

24th April, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*
2. *Whether reportable*

: *Yes / No*
: *Yes / No*