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

CRM-M-40242-2024 (O&M)

Reserved on : 15.07.2025

Pronounced on :13.08.2025

Vaneet Khanna

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Rajat Malhota, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Shavetanshu Goel, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J.

1. The present petition has been filed by the petitioner/complainant under Section 439(2) of Cr.P.C. seeking cancellation of pre-arrest bail granted to respondent No. 2, namely Dr. Harpreet Singh Jolly, vide order dated 05.07.2024, in case bearing FIR No. 87 dated 16.04.2024, registered under Sections 192, 193, 417, 418 and 420 of IPC at Police Station Sadar Ludhiana, District Ludhiana.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was got registered by the petitioner on the allegations that respondent No. 2, who is a practising doctor, had cheated him on the pretext of removing his kidney stone by showing him false and fabricated medical reports. After registration of FIR, apprehending his arrest, respondent No. 2 had moved an application for grant of anticipatory

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bail before the Court of learned Additional Sessions Judge, Ludhiana, which was allowed, vide impugned order dated 05.07.2024 (Annexure A-4). The petitioner, who is originally the complainant of this case, has prayed for cancellation of benefit of pre-arrest bail granted to respondent No. 2 on the grounds that respondent No. 2 had wrongly been granted concession of pre-arrest bail though his custodial interrogation was required as on a complaint, moved by the petitioner, the Commissioner of Police, Ludhiana had ordered an inquiry, in which, the doctors had found that the petitioner could not have such a big calculus again in a short span of four to six weeks, which showed that respondent No. 2 had fabricated the medical records.

3. It is argued by learned counsel for the petitioner that the impugned order dated 05.07.2024, whereby the concession of pre-arrest bail has been granted to respondent No. 2, has been wrongly passed by the Court concerned as while passing the same, it was ignored that the custodial interrogation of respondent No. 2 was very necessary for divulging the truth and for explaining the circumstances in which he had wrongly claimed that no calculus was left in the left kidney of the petitioner. The Court concerned ignored the report of the doctors, which was saying that a big calculus was still found in the kidney of the petitioner, even after surgery performed by respondent No. 2. The act committed by respondent No. 2 did not entitle him to seek concession of pre-arrest bail and enjoy the same. It is also submitted that due to wrong treatment given by respondent No. 2, the petitioner has turned into paraplegic state. His mobility has been restricted and he is suffering from serious medical problems. He has suffered physical as well as

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financial losses. No exceptional circumstance for grant of pre-arrest bail was made out in the peculiar facts. Rather, it was a case wherein custodial interrogation of respondent No. 2 was must. With these broad submissions, it is urged that the impugned order of bail passed in favour of respondent No. 2 is liable to be cancelled and he is liable to be detained in custody. In support of his submissions, learned counsel for the petitioner has relied upon the authorities cited as ***Jacob Mathew vs. State of Punjab and another : (2005) 6 Supreme Court Cases 1*** and ***Kusum Sharma and others vs. Batra Hospital and Medical Research Centre and others : (2010) 3 Supreme Court Cases 480.***

4. Status report has been filed by respondent-State, as per which, respondent No. 2 had moved an application for grant of pre-arrest bail. He were ordered to be joined into investigation and the order, granting interim bail to him, has been made absolute by the Court of learned Additional Sessions Judge, Ludhiana, vide impugned order dated 05.07.2024. However, learned State counsel has not raised any serious objection to the grant of pre-arrest bail to respondent No. 2.

5. Reply has been filed on behalf of respondent No. 2. It is argued by learned counsel for respondent No. 2 that there is no infirmity or illegality in the impugned order as while passing the same, the learned Additional Sessions Judge, Ludhiana had observed that the case was purely based on documentary evidence and hence the custodial interrogation of respondent No. 2 was not required at all. It is submitted that there is nothing on record to suggest that respondent No. 2 has misused the concession of bail granted to

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him or had made any attempt to interfere with the due course of administration of justice. No reasonable circumstance for cancellation of bail has been pleaded or argued by the petitioner's side. It is, therefore, urged that the petition is devoid of any merits and that the same does not deserve to be allowed. To fortify his argument, learned counsel for respondent No. 2 has relied upon the authorities cited as ***Dataram Singh vs. State of Uttar Pradesh : (2018) 3 SCC 22*** and ***Dolat Ram and others vs. State of Haryana :1995 SCC (1) 349***.

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

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,

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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***'s case (supra).

8. The well settled proposition of law is also that once bail is granted to an accused, cancellation thereof would require cogent and overwhelming circumstances for its cancellation. Reference in this regard can be made to ***Vipan Kumar Dhir v. State of Punjab, 2021 SCC OnLine SC 854***. In ***Dataram***'s case (supra), the Hon'ble Supreme Court observed that very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. General speaking, the grounds for cancellation of bail are interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. It was further observed that bails once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have 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. On applying the above discussed proposition of law to the facts and circumstances peculiar to the present case, it may be mentioned that the petitioner herein has sought cancellation of bail of respondent No. 2 by alleging that he had performed surgery for removing calculus from his left

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kidney and had represented that the said calculus had been removed, though in fact the same had not been removed, since a big calculus was shown in the kidney of the petitioner within a few days after the surgery performed by respondent No. 2 and thereby he had committed fraud upon him and had cheated him but these facts had not been taken into consideration by the Court concerned. In the instant case, the benefit of pre-arrest bail had been granted to respondent No. 2 by the Court concerned subject to joining investigation by him, which had been so done by him. The Court concerned had observed that the case was based on documentary evidence and that respondent No. 2 had joined investigation and was not required for any further interrogation as informed by the Investigating Officer. There is no doubt about the fact that the case is based on documentary evidence which is in the shape of medical record and the same has already been made available to the Investigating Officer, who had stated in the Court that the custodial interrogation of respondent No. 2 was not required. Bail of respondent No. 2 can be cancelled if there is any material to show that there was any interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to him in any manner. In the above cited cases, it was observed that bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstance has rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during trial. However, nothing of that sort has come on record before this Court. The ratio of law as cited by learned counsel for the petitioner is not at

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all relevant for the purpose of deciding this petition as they relate to cases of criminal negligence on the part of a doctor or negligence in medical services. As such, there is nothing on record to accept the contentions as raised by learned counsel for the petitioner.

10. In view of the discussion as made above, this Court finds no reason to cancel the benefit of pre-arrest bail as granted to respondent Nos. 2 and 3. Accordingly, the petition is dismissed.

13.08.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No