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

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CRM-M-43090-2024 (O&M)
Date of decision : 08.07.2025

Ranju Devi**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Ms. Tania Mahajan, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

Mr. Umesh Aggarwal, Advocate
for respondent No. 2/accused.

MANISHA BATRA, J. (Oral)

1. This petition has been filed under Section 483(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short* 'BNSS') by the petitioner/complainant seeking cancellation of pre-arrest bail granted to respondent No.2/accused by the Court of learned Additional Sessions Judge, Amritsar, vide orders dated 09.08.2024 and 17.08.2024, in case arising out of FIR No. 50 dated 23.07.2024, registered under Sections 109, 115(2), 281, 351(2) and 3(5) of Bharatiya Nyaya Sanhita, 2023 (*for short* 'BNS') at Police Station Verka, District Amritsar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of the statement got recorded by the present petitioner/complainant Ranju Devi on

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23.07.2024 alleging therein that respondent No.2/accused Vishal Kumar, along with his father Rajesh Kumar, used to reside in the neighborhood of the petitioner. On 21.07.2024, co-accused Rajesh Kumar had hurled abuses to the petitioner and had also extended threats to family members of the petitioner while standing in the street. In the morning of 22.07.2024, respondent No. 2 along with his father had boarded their car bearing registration number PB-02-EK-6565. Respondent No. 2 was driving the same. Upinder Kumar, husband of the petitioner, had asked the reason for hurling abuses on the previous day and on this, they started extending threats to him and then on the asking of co-accused Rajesh Kumar and with intent to kill the husband of the petitioner, respondent No. 2 drove over his car upon Upinder Kumar and they fled away from the spot. Her husband was severely injured and was taken to hospital. On her statement, the present FIR was registered and investigation proceedings were initiated. Apprehending his arrest, respondent No. 2 moved an application for grant of pre-arrest bail. Learned Additional Sessions Judge, Amritsar, vide order dated 09.08.2024, directed him to join the investigation and then vide order dated 17.08.2024, the order of interim bail was made absolute. Feeling aggrieved from those orders, the instant petition has been filed by the petitioner, who is wife of victim Upinder Kumar.

3. It is argued by learned counsel for the petitioner that impugned orders had been passed by the learned Additional Sessions Judge, Amritsar and benefit of pre-arrest bail was granted to respondent No. 2 by observing that the evidence against him was of documentary nature and his custodial interrogation was not required. It is submitted that respondent No. 2 has been

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booked for commission of heinous crime of making attempt to murder the victim. He had intentionally run over the victim with his car and had escaped from the spot. The occurrence was even captured in the CCTV camera installed in the area and the footage contained in a compact disc was seen by the concerned Court also. However, while failing to consider the gravity of the offence, the possibility of respondent No. 2 tampering with the evidence and causing hindrance in the investigation, the Court concerned granted him the concession of pre-arrest bail. It is further submitted that left leg of the husband of the petitioner has been amputated due to infection in the injury sustained by him in the incident. He has undergone number of surgeries and is still under treatment. The impugned orders have caused miscarriage of justice. It is also argued that respondent No. 2 still has been issuing threats to them has been openly mocking the petitioner. He has also been making attempt to intimidate and pressurize the family of the petitioner. It is, therefore, urged that the petition deserves to be allowed and the benefit of pre-arrest bail granted to respondent No. 2 is liable to be withdrawn.

4. Respondent No. 1-State has filed status report. It is argued by learned Assistant Advocate General, Punjab that keeping in view the gravity of the allegations, the benefit of pre-arrest bail granted to respondent No. 2 is liable to be withdrawn. Hence, it is urged that the petition deserves to be allowed.

5. Respondent No. 2 has filed reply to the petition. It is argued by his counsel that respondent No. 2 has never misused the concession of bail granted to him. There is no infirmity in the impugned orders granting pre-

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arrest bail to respondent No. 2. Hence, the dismissal of the petition is prayed for.

6. The rival contentions of the parties have been heard at length, besides watching the video footage contained in the compact disc regarding incident as well as the photographs of the victim showing his amputated left leg.

7. In a recent 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 vs. 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 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***. In view of the settled position of law as discussed above, it is to be seen as to whether the benefit of pre-arrest bail as granted to the respondent No.2, is liable to be withdrawn and the bail is liable to be cancelled or not? Undisputedly, the well settled proposition of law is that once the benefit of bail is granted to an accused, the same should be cancelled only in overwhelming circumstances and due to some cogent reasons. The petitioner herein has sought cancellation of bail granted to respondent No. 2 by alleging that he has committed a grave offence and further that learned Additional Sessions Judge did not take into account the gravity of the offence committed

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by respondent No. 2 and other relevant materials. In my considered opinion, it will be appropriate to reproduce the relevant portion of the impugned order dated 09.08.2024 before proceeding further in the matter. The same reads as under :

“6. From the submissions made by learned counsel for the applicant-accused and learned Additional PP for the State, I am of the considered view that the complainant has alleged that he was purposefully run over by the Innova car which was being driven by applicant resulting in serious injuries upon his person. Applicant has brought on record a Pen-drive which shows the occurrence. That from the same, it is clear that the complainant party had attacked the applicant. He was trying to drive the car away resulting into one of the tyre of car being run over one of the complainant. That evidence against the applicant is documentary in nature, theretofore, custodial interrogation of the applicant is not required. In these circumstances, before deciding this bail application on merits, it would be in the fitness of things that applicant-accused be directed to join investigation which would be beneficial for further progress of investigation. As such, applicant-accused is directed to join investigation within 6 days from the date of passing of this order by surrendering before the IO/SHO of Police Station Verka, Amritsar and in the event of arrest of the applicant-accused, such Arresting Officer is directed to release him on interim bail on his furnishing bail bonds to the sum of Rs. 50,000/- with one surety in the like amount to his satisfaction, subject to the conditions under Section 438(2)Cr.PC.”

8. On a bare perusal of aforesaid order, it is reflected that learned Additional Sessions Judge, Amritsar observed that in the CCTV footage, the

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complainant party had attacked upon respondent No. 2 and while he was trying to save himself by driving away his car, the same had run over the husband of the complainant. However, the observations so made clearly appear to be against the said video recording since on a perusal of the video recording contained in the compact disc shows that the car of respondent No. 2 dragged the victim and the same car can be seen leaving the spot. Learned Court concerned appears to have wrongly observed that evidence against respondent No. 2 was documentary in nature and due that reason, his custodial interrogation was not required. It is apparent from the record that the left leg of the victim was amputated due to the injuries sustained in the incident. He was left at the spot by respondent No. 2 in injured condition for a while after the incident. From this, an inference that respondent No. 2 had intent to kill the victim and made an attempt to that effect can prima facie be drawn. It is well settled proposition of law that an accused does not become entitled to concession of pre-arrest bail as a matter of right, even if his custodial interrogation is not required. Reference in this regard can be made to the authority cited as ***Sumitha Pradeep vs. Arun Kumar C. K. and another : 2022 (4) RCR (Criminal) 977***, wherein Hon'ble Supreme Court has held that even if custodial interrogation is not required or necessitated, by itself, cannot be ground to grant anticipatory bail.

9. It is also well settled proposition of law that while considering an application for grant of pre-arrest bail, the Court has to consider the nature of offence, the role of the person, likelihood of his influencing the course of investigation or tampering with the evidence (including intimidating witnesses

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or likelihood of his absconding). Reference in this context may be made to ***Sushila Aggarwal v. State (NCT of Delhi), (2020) 5 SCC 1***. It is also well settled that an order for cancellation of bail can be passed in exercise of powers under Section 483(3) of BNSS, where the order granting bail suffers from serious infirmities resulting into miscarriage of justice. Reference in this regard can be made to ***Myakala Dharmarajam v. The State of Telangana, (2020) 2 SCC 743***, wherein the Hon'ble Supreme Court observed that the cancellation of bail can be ordered 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. In view of this position of law, it is clear that an appellate or superior Courts can set aside the order granting bail, if the Court granting bail did not consider the relevant factors.

10. The allegations against respondent No. 2 are quite serious and specific in nature. There is nothing on record to show that the complainant party was aggressor or that it had attacked the respondent No. 2 and that the victim was run over while respondent No. 2 was trying to save himself. In view of grave nature of the allegations as levelled against respondent No. 2, in my considered opinion, a deeper and thorough investigation was required to be conducted in the matter, for which, custodial interrogation of the petitioner is must.



11. Learned Additional Sessions, while passing the impugned order, however, ignored this fact and also observed that evidence against respondent No. 2 was of documentary nature. In view of the discussion as made above, I am of the considered opinion that the petition deserves to be allowed. Accordingly, the same is allowed. The impugned orders dated 09.08.2024 and 17.08.2024 are hereby set aside. Consequently, the concession of pre-arrest bail granted to respondent No. 2 stands withdrawn. He is directed to surrender before the learned trial Court within a period of 15 days from today. He would be at liberty to move an application for grant of regular bail.
12. It is made clear that the observations made herein above are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

08.07.2025	(MANISHA BATRA)
<i>Waseem Ansari</i>	JUDGE
<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>