



CRM-M-49037-2024

1

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

101-1

CRM-M-49037-2024

Jiwan Bansal

...Petitioner

V/s

State of Punjab and another

...Respondents

Date of decision: 20.11.2025**Date of Uploading :20.11.2025****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Ms. Manju Goyal, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. J.S. Chahal, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483(3) of the BNSS, 2023, for cancellation of anticipatory bail granted to respondent No.2 vide order dated 22.08.2024 (Annexure P-2) passed by Additional Sessions Judge, SAS Nagar in FIR No.51 dated 23.06.2024 registered for offences punishable under Sections 406, 420, 506 of IPC at Police Station Banur, District Patiala.

2. The relevant portion of the order passed by Additional Sessions Judge, Mohali, reads as under:

“8. Taking into consideration entire facts and circumstances of the case, the application is allowed and the order dated 30.07.2024 is made absolute. The applicant shall comply with the conditions contained in Section 482(2) of BNSS. File be consigned to the record room after due compliance. Record be returned.”

**CRM-M-49037-2024****2**

3. Learned counsel for the petitioner has iterated that the Court below has failed to appreciate the seriousness and gravity of the allegations while passing the impugned order. Learned counsel has further iterated that the respondent No.2 has dishonest intention from the very inception and entered into the agreement to sell only with a view to defraud the petitioner and to avoid complying with its terms. Furthermore, the Court below has overlooked the material fact that respondent No.2 has received substantial amount from the petitioner and allegedly transferred it abroad. Learned counsel has further submitted that the custodial interrogation of the respondent No.2 is essential for recovery of the amount and there is every likelihood that respondent No.2 may abscond which facts have completely been ignored by the Court below while granting the concession of anticipatory bail to the respondent No.2. It has been further argued that the impugned order has been passed in a mechanical manner without application of mind. Thus, keeping in view the gravity of offence, cancellation of the anticipatory bail granted to respondent No.2 is entreated for.

4. Learned State counsel has filed status report dated 16.01.2025 by way of affidavit of Manjit Singh, PPS, Deputy Superintendent of Police, Circle Rajpura, District Patiala and has raised submissions in tandem with the said status report; relevant whereof reads as under:

“5. That the report of the enquiry officer was approved by the Senior Superintendent of Police, Patiala and hence, the present case/FIR was registered against Bhag Singh (respondent no. 2) for the offences under Section 406, 420, 506 of IPC at Police Station Banur, District Patiala.

6. That it is respectfully submitted that on 22.07.2024, the respondent no.2 approached the Court of Ld. Additional Sessions Judge,



CRM-M-49037-2024

3

SAS Nagar for seeking the relief of Anticipatory bail in the present case/FIR and vide order dated 30.07.2024, the Ld. Additional Sessions Judge, SAS Nagar granted interim bail to the respondent no. 2 and directed him to join the investigation. Accordingly, the respondent no. 2 was joined in the investigation on 02.08.2024. Subsequently, vide order dated 22.08.2024, the Ld. Additional Sessions Judge, SAS Nagar allowed the application of Anticipatory bail of the respondent no. 2 and made the order dated 30.07.2024 absolute.

7. *That during the course of investigation, Harpal Singh son of Bhag Singh (respondent no. 2) was nominated as accused and offence under Section 120-B of IPC was added in the present case/FIR vide Special Report dated 11.09.2024.*

8. *That it is respectfully submitted that the custodial interrogation of the respondent no. 2 is very much required for thorough investigation of the case. Moreover, the money which was obtained by respondent no. 2 and his son Harpal Singh by cheating from the petitioner, is yet to be recovered.*

9. *That it is respectfully submitted that the arrest of co-accused Harpal Singh is still pending. Furthermore, the investigation of the present case/FIR is also pending and final report against the accused would be presented after the completion of the investigation.”*

5. Learned counsel appearing for respondent No.2 has iterated that the present petition is misconceived as the petitioner has failed to make out any grounds that would warrant cancellation of anticipatory bail already granted by the Court below. Furthermore, the order granting anticipatory bail is a well reasoned and speaking order which has been passed after considering the material placed before the Court. According to learned counsel, the respondent No.2 has cooperated fully with the investigation and no supervening circumstances or misuse of liberty have been shown by the petitioner. On the strength of these submissions, the dismissal of the instant petition is prayed for.

6. I have heard learned counsel for the rival parties and have perused the record.



CRM-M-49037-2024

4

7. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-9029-2023**, titled as ***Dinesh Madan vs. State of Haryana and another***, decided on 17.05.2024; relevant whereof reads as under:-

“17. As an epilogue to above discussion, the following principles emerge:

I. (i) There is a conceptual distinction, between cancellation of bail” & “setting-aside of a bail order”. In a plea seeking cancellation of bail”; the factors required to be considered are akin to supervening circumstances/events or mis-conduct of accused whereas in a plea seeking “setting-aside of a bail order”; the factors required to be considered are akin to the order in question being unjustified or illegal or not based on relevant consideration(s). In other words, a plea seeking “setting aside of a bail order” is more in the nature of laying challenge to an order granting bail before a superior Court upon merits thereof.

(ii) It would be pragmatic as also desirable, for the cause of ease and clarity, that a plea filed under Section 439 of Cr.P.C., 1973 clearly states as to whether the plea is for “cancellation of bail” or for “setting aside of a bail order.” or on both accounts.

II. Plea seeking cancellation of Regular Bail.

(i) A High Court has power to cancel regular bail granted by itself or by a Sessions Court or by a Magistrate’s Court.

(ii) A Sessions Court has a power to cancel regular bail granted by High Court or by itself or by a Magistrate’s Court. However, the Sessions Court can cancel regular bail granted by High Court only where the accused has violated any condition(s) imposed by the High Court (while granting bail) or on account of such accused having misused liberty granted to him by trying to influence witness(s) or having tried to delay trial by absenting himself or having committed another offence(s) while on bail and other factors of akin nature. In other words, a Sessions Court can cancel bail granted to an accused by High Court only on account of such like supervening/subsequent events but cannot adjudicate upon veracity of the High Court order (whereby bail was granted to such accused.)

(iii) A Magistrate does have the power to cancel a regular bail granted by him in terms of Section 437(5) of Cr.P.C. 1973. However, a Magistrate does not have the power to cancel regular bail granted by the High Court or Sessions Court except in a situation wherein the accused has violated any



condition(s) imposed upon him when granted such bail by the High Court or the Sessions Court.

(iv) In case cancellation of a regular bail granted by the Sessions Court is sought for; such plea ought to be ordinarily filed before the Sessions Court itself. However, since there is concurrent jurisdiction of the High Court as also Sessions Court in terms of Section 439(2) of Cr.P.C. 1973, the filing of such a plea straight away before the High Court is not ipso facto barred. At the same time, it would be expedient that such a plea (filed straight away before the High Court) must show cogent reason(s) for not approaching the Sessions Court in the first instance.

(v) The factors for consideration in a plea for cancellation of a regular bail are whether the accused has misused liberty granted to him by trying to influence witness(s) or has tried to delay trial or has committed another offence(s) while on bail, whether the accused has flouted the cancellation of bail, whether bail was procured by misrepresentation or fraud or concealing relevant material and similar factors of akin nature. There is no gainsaying that above factors are only illustrative in nature as it is not axiomatic to exhaustively enumerate them.

(vi) Where such plea raises ground(s) that bail has been granted on account of misrepresentation of facts or a fraud having been played on Court which has granted bail or concealment of material/relevant facts; it would be expedient that such plea be filed, in the first instance itself, before the Court which had granted bail in question.

(vii) The degree and nature of proof required to be shown by an applicant (seeking cancellation of regular bail) is that of preponderance of probabilities and not one of being beyond reasonable doubt.

xxxx	xxxx	xxxx	xxxx
xxxx	xxxx	xxxx	xxxx

VI. Where a plea made under Section 439(2) of Cr.P.C. 1973 raises grounds regarding “cancellation of bail” as also for “setting aside of bail order”, such plea has to be essentially made before the superior Court.”

8. The averments made in the petition as also the arguments raised by learned counsel for the petitioner, indubitably, show that petition has been filed for cancellation of the anticipatory bail order granted to the respondent No.2 vide order dated 22.08.2024 (Annexure P-2) passed by

**CRM-M-49037-2024****6**

it is not the stand of the petitioner that the respondent No.2 has misused the concession of anticipatory bail granted by the Additional Sessions Court by threatening/intimidating the witness(s) or by trying to influence the investigation/trial etc. It is conceded position before this Court that the FIR was registered on 23.06.2024 and the investigating agency has not reported any non-cooperation or attempt by respondent No.2 to interfere with the investigation. The allegation regarding transfer of funds abroad are unsubstantiated at this stage and does not, by itself, constitute ground for cancellation of the bail. It is trite law that the consideration(s) for grant of bail and for cancellation of bail are distinct. Cancellation of bail already granted requires demonstration of supervening circumstances such as misuse of liberty, tampering with evidence, intimidation of witnesses or deliberate evasion of the judicial process. Mere dissatisfaction with the reasoning of the Court below which has granted the bail or the seriousness of the offence, by itself, is not sufficient to recall such an order. Learned counsel has laid much emphasis that the allegations against the respondent No.2 are serious, which according to the petitioner, ought not to have been considered by the Court below at the time of grant of anticipatory bail. In the considered opinion of this Court, the petitioner has not brought any fresh or supervening material before this Court. A mere allegation of seriousness of offence or suspicion of absconding without concrete material cannot justify the cancellation of bail. Moreover, such a plea cannot, by itself, render the order granting the bail perverse. The order passed by the Additional Sessions Court is a well-reasoned speaking order and cannot be said to be suffering from vice of non-application of judicial mind. This

**CRM-M-49037-2024****7**

Court, keeping in view the entirety of the facts and circumstances of the case(s) in hand, does not find any good ground to hold that the Additional Sessions Court, while passing the impugned order, has overstepped its jurisdiction or has not exercised the same in right perspective. Therefore, the petition(s) in hand deserves rejection.

9. Keeping in view the entirety of the facts and circumstances of the case in hand, no ground is made out to set-aside the anticipatory bail earlier granted to respondent No.2 vide the impugned order. Therefore, the petition in hand deserves rejection.

10. As a sequel to the above discussion, the present petition filed under Section 483(3) of the BNSS, 2023, seeking cancellation of anticipatory bail order dated 22.08.2024 (Annexure P-2) passed by learned Additional Sessions Judge, SAS Nagar is dismissed.

11. It, indubitably, goes without saying that nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

November 20, 2025

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No