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

CRM-M-9993-2024

Date of decision 27.01.2026

ANOOP SINGH

..... PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

..... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Sachin Sharma, Advocate &
Mr. Surendra Pant, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. Vipul Aggarwal, Advocate for
Ms. Sunita Gupta, Advocate
for respondent No.2.

SURYA PARTAP SINGH. J.

1. This petition for cancellation of bail has been moved by the complainant on the ground that the learned Sessions Judge, Kapurthala while granting the bail to the respondent No.2 at the first instance recorded wrong observation i.e. contrary to the factual matrix of the case, and on second occasion, when the case was remanded by this Court, did not discuss the parameters meant for grant of bail and without application of mind accorded the benefit of bail to the respondent No.2.

2. In addition to above, it has also been alleged by the petitioner that in view of gravity of offence committed by the respondent No.2, and the direct evidence against the respondent No.2, he does not deserve the benefit of bail.



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3. In addition to above, another plea taken by the petitioner is that, the respondent No.2 has been threatening the petitioner, and with regard to above one DDR, too, was registered by the police.

4. In nut-shell, the facts emerging from record are that, that at the instance of petitioner one FIR for the commission of offence punishable under Sections 307, 324, 323, 427, 506 and 34 of IPC was lodged against the respondent No.2, and that during the course of investigation of above-mentioned case, the respondent No.2 was arrested. The respondent No.2 moved an application for bail in the Court of learned Sessions Judge, Kapurthala, and the above-said Court vide order dated 06.01.2023 accorded the benefit of bail to the respondent No.2, while observing that the respondent No.2 was already in custody for a period of more than 80 days, and that there was no medical record with regard to injuries suffered by the complainant or his son.

5. Aggrieved of the above-mentioned order, the petitioner approached the same Court i.e. the Court of Sessions, for cancellation of bail, and also filed a petition bearing CRM-M-2863-2023 in this Court. However, this Court disposed of the CRM-M-2863-2023 by holding that in view of application for cancellation of bail moved by the petitioner in the Court of Sessions, Kapurthala, the above-mentioned petition was not maintainable.

6. In the backdrop of above-mentioned development, the application for cancellation of bail moved by the petitioner was decided by learned Sessions Judge, Kapurthala on 06.02.2024. However, the abovesaid application was dismissed on the ground that there was no complaint of misuse of concession of bail by the respondent No.2.

7. Heard.

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8. It has been contended on behalf of petitioner that instant case is a rare case, wherein without proper appreciation of fact the benefit of bail has been accorded by the learned Sessions Court, and when petitioner approached the same Court for cancellation of bail by moving an application, alleging therein the wrong appreciation of fact by the Court, the learned Court dismissed the application for cancellation of bail by merely observing that there was no misuse of bail. As per learned counsel for the petitioner since allegations against the respondent No.2 were for the commission of serious nature of offence, and the very foundation of former order of bail was defective, it was incumbent upon the learned Court of Sessions to recall the bail order or at least pass fresh order on merit, but the learned Court of Sessions has failed to do so. Hence, the present petition.

9. In addition to above the learned counsel for the petitioner has also contended that in the present case there are specific allegations against the respondent No.2 that he had misused the concession of bail, as he has been threatening the petitioner of dire consequences. In this regard the learned counsel for the petitioner has contended that the matter was also reported to the police, and the police had recorded a Daily Diary Report. According to learned counsel for the petitioner in view of above-mentioned conduct of respondent No.2 the benefit of bail erroneously accorded to him, deserves to be withdrawn.

10. In support of his contentions, the learned counsel for the petitioner has relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Ajwar vs. Waseem and Another' 2024(10) SCC 768, and by this Court in the case of 'State of Haryana vs. Mahesh' CRM-26604 of 2024 [in CRM-M-20986-2024].



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11. The learned Legal Aid Counsel representing the respondent No.2 has controverted the above-mentioned arguments. According to learned Legal Aid Counsel, the benefit of bail accorded to the respondent No.2 cannot be withdrawn on the mere asking of the complainant/victim. As per learned counsel for the respondent No.2, there is no cogent evidence on record to show that the benefit of bail has been misused by the respondent No.2. With regard to above, the learned counsel for the respondent No.2 has contended that despite recording of DDR, the police did not take any action against the respondent No.2, which in itself shows that no substance was found in the allegations levelled against the respondent No.2.

12. It has been further contended by learned counsel for the respondent No.2 that otherwise also if any threat from the respondent No.2 is there, the proper remedy available to the petitioner is either to move a petition in the Court seeking protection, or file an application under 'Witness Protection Scheme'. While claiming that the benefit of bail has been rightly afforded to the respondent No.2, the learned counsel for the respondent No.2 has contended that no ground for interfering in the impugned order is made out.

13. The record has been perused carefully.

14. In the present case, there are four aspects which deserves to be taken into consideration.

15. The first aspect is as to whether by discussing the facts contrary to record, the benefit of bail has been accorded to the respondent No.2. In this regard, it is relevant to mention here that the contents of the FIR itself shows that details of the injuries suffered by the petitioner and his son, were duly mentioned by the petitioner in the FIR itself. In addition to the above-mentioned



injuries, the description of weapon used by the assailants were also detailed in the FIR. Besides above-mentioned facts, it is also relevant to mention here that in the FIR itself it was mentioned that after injuries, the petitioner was got admitted in a hospital, where his medical examination was conducted.

16. Once the contents of the FIR, in themselves, contained the reference of medico-legal examination of the petitioner, in my opinion the observation of learned Court of Sessions, while dealing with bail application, that there was no medical record of the complainant or his son was apparently erroneous. Thus, this contention of the petitioner deserves to be upheld that the benefit of bail was accorded to the respondent No.2 by wrong appreciation of facts.

17. The second aspect to be taken into consideration is whether the application for cancellation of the bail moved by the petitioner should have been dismissed on the ground referred in the order dated 06.02.2024. With regard to above, it is pertinent to mention here that a perusal of record shows that the application for cancellation of bail was moved by the petitioner by alleging that medical evidence with regard to injuries suffered by the petitioner and his son were ignored. In such a scenario, while dealing with above-mentioned application it was expected from the Court of learned Sessions Judge that the facts should have been re-appreciated in the light of contention raised by the petitioner. But the order dated 06.02.2024 shows that merely by observing that there was no misuse of concession of bail, the application for cancellation of bail was rejected. In fact, in the above-said order also any endeavour to rectify the mistake, which was committed while passing the order dated 06.01.2023, was not made.



18. The third aspect in this petition is as to whether in the given fact situation, the respondent No.2 was entitled for the benefit of bail or not. With regard to above, it is pertinent to mention here that the benefit of bail was afforded to the respondent No.2 when he had already served imprisonment for a period of 80 days. At that point of time the petitioner and his son were already discharged from the hospital and it was apparent that nothing was left to be recovered from the possession of respondent No.2. It was also apparent that the trial was not likely to be concluded in near future.

19. In view of cumulative effect of all the above-discussed factors, prevailing at that point of time, it is hereby held that the respondent No.2 was entitled for the benefit of bail. Thus, it is hereby observed that although the reasoning recorded by the learned Court of Sessions, while granting bail to the respondent No.2, was not correct, yet, in the given fact situation the respondent No.2 was entitled for the benefit of bail.

20. The fourth aspect in the present case is as to whether the benefit of bail extended to respondent No.2 deserves to be withdrawn in view of alleged threat by him to the petitioner. With regard to above-mentioned aspect, it is pertinent to mention here that in the present case there is only bare allegation against the respondent No.2 that he misused the concession of bail. The record shows that despite recording of DDR the police has not taking cognizance of any such incident. Any FIR against the respondent No.2, with regard to alleged threat given by respondent No.2 to the petitioner, has not been filed.

21. In addition to above, there is nothing on record to show that any effort has been made by the petitioner to seek protection with the intervention of Court or by moving an application under Witness Protection Scheme. Thus

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the appreciation of overall scenario leads to the conclusion that the plea of misuse of concession of bail is not worth believable.

22. In view of above-mentioned peculiar facts and circumstances of this case, it is hereby held that the factual matrix of the present case being altogether different, the principles propounded by Hon'ble Supreme Court of India in the case of Ajwar (supra), and by this Court in the case of Mahesh (supra), are not applicable to the facts and circumstances of the present case.

23. Taking into consideration the cumulative effect of the all the above-mentioned factors, in my considered opinion once the petitioner has failed to prove that he has any eminent danger or threat from the hand of respondent No.2, and that otherwise the given fact situation the respondent No.2 deserves the benefit of bail, it is hereby held that the present petition is devoid of merit and deserves dismissal. Hence, the same is hereby dismissed accordingly.

(SURYA PARTAP SINGH)
JUDGE

27.01.2026*vipin*

Whether speaking/reasoned	:	Yes
Whether Reportable	:	No