



CRM-M-27396-2025

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

102

CRM-M-27396-2025

Sumit Maggo

....Petitioner

V/s

State of Punjab and another

....Respondents

Date of decision: 27.01.2026**Date of Uploading: 27.01.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Vipul Sharma, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. S.S. Sarwara, Advocate for respondent No.2

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 480(5) read with Section 483(3) of the BNSS, 2023, seeking cancellation of anticipatory bail granted to respondent No.2 vide order dated 19.03.2025 (Annexure P-5) passed by this Court in FIR No.102 dated 05.10.2024 registered for offences punishable under Sections 420, 120-B of IPC and Section 24 of Immigration Act at Police Station Division No.3, District Ludhiana.

2. The relevant portion of the order passed by this Court, reads as under:

“3. On the last date of hearing, learned State counsel had not refuted the submissions made by the counsel for the petitioners that the petitioners had indeed joined investigation and cooperate with the investigating agency. However, it had been submitted by the learned State counsel, on instructions that the recovery of the passport of the wife of the complainant had not yet been effected from the petitioner.



4. *Counsel for the petitioner submits that the passport of the complainant's wife is with the U.K. High Commission. In support, counsel for the petitioner has placed on record a copy of the email sent by none other than the U.K. High Commission, wherein it stands reflected that an advisory has been sent to the VISA Application Centre to release the passport of the wife of the complainant.*

5. *In view of the above, the petition is allowed and interim order dated 27.11.2024, is made absolute subject to the conditions laid down in Section 438(2) Cr.P.C./482(2) BNSS."*

3. Learned counsel for the petitioner has iterated that the respondent No.2 ought not to have been granted the concession of anticipatory bail by this Court in view of grave and serious allegations levelled against the said respondent. Learned counsel has further iterated that the respondent No.2 has obtained the concession of anticipatory bail by misleading this Court by placing reliance upon a false and fabricated e-mail dated 09.09.2024, purportedly issued by U.K. High Commission to show that the passport of the wife of the complainant-petitioner (herein) was lying with the Visa Application Centre. Learned counsel has based his arguments on the subsequent information obtained directly from the Visa Application Centre categorically establishing the passport has already been delivered on 27.07.2024 and was received by respondent No.2 himself. According to learned counsel, the passport of the wife of the complainant-petitioner is still in the illegal custody of respondent No.2 and despite specific directions of this Court to cooperate with the investigation and hand-over the same, no recovery has been effected till date. Learned counsel has drawn the attention of this Court with regard to involvement of respondent No.2 in another case i.e. FIR No.183 dated 12.09.2024 registered under Sections



420, 467, 468, 471 and 120-B of IPC at Police Station City Rajpura, to contend that the nature of allegations therein reflects a consistent and habitual pattern of cheating and forgery. Learned counsel has further submitted that the continuance of anticipatory bail under such circumstances is an abuse of process of law. On the strength of these submissions, learned counsel has prayed that the anticipatory bail granted to respondent No.2 be cancelled.

4. Learned State counsel has argued that the anticipatory bail granted to respondent No.2 was passed after considering the material placed on record at the relevant time and after respondent No.2 has joined the investigation pursuant to the interim directions issued by this Court. Learned State counsel has iterated that the issue regarding the custody and recovery of the passport of the wife of the complainant-petitioner (herein) is still under investigation and the investigating agency is making efforts to recover the same in accordance with law.

5. Learned counsel appearing for respondent No.2 has iterated that the present petition seeking cancellation of anticipatory bail is misconceived, devoid of merit and an abuse of the process of law. According to him, the anticipatory bail granted to respondent No.2 was made absolute after due consideration of the record, the status of the investigation and the submissions made by learned counsel for the rival parties. Furthermore, no allegation has been leveled by the prosecution that respondent No.2 has misused the concession of bail, violated any bail condition or attempted to influence witness(s). Learned counsel contends



circumstances warranting cancellation of anticipatory bail granted to respondent No.2. Accordingly, the dismissal of the instant petition is canvassed for.

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

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 the present petition has been filed seeking cancellation of the anticipatory bail order granted to the respondent No.2 vide order dated 19.03.2025 (Annexure P-5) passed by this Court. It is worthwhile to note herein that it is not the stand of the petitioner that the respondent No.2 has misused the concession of anticipatory bail by threatening/intimidating the witness(s) or by trying to influence the investigation/trial etc. 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 which has granted the bail or the seriousness of the offence by itself, is not sufficient to recall such an order. Mere allegations that certain facts were incorrectly projected at the time of grant of bail without subsequent misuse of liberty do not *ipso facto* warrant cancellation of bail. In the present case, it is not disputed that respondent No.2 has joined investigation and has remained available to the investigating agency. No material has been placed on record to demonstrate that respondent No.2 has attempted to abscond or tried to influence the witness(s), after the grant of anticipatory bail. Learned counsel has laid much emphasis with regard to the custody of the passport and authenticity



of the e-mail sent by U.K. High Commission. In the considered opinion of this Court, the said aspects are essentially matters of investigation which the investigating agency is empowered to probe in accordance with law. The same, by itself, cannot form the sole basis for cancellation of bail. Furthermore, this Court while granting the concession of anticipatory bail to respondent No.2 has not conclusively adjudicated upon the authenticity of any e-mail relied upon during the course of hearing of such anticipatory bail. The grant of anticipatory bail was based on the overall facts and circumstances, including the conduct of the respondent No.2 as also the stage of investigation and not solely on the e-mail in question. The order passed by this Court is a well-reasoned speaking order and cannot be said to be suffering from vice of non-application of judicial mind. This 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 this 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 cancel the anticipatory bail earlier granted to respondent No.2 vide the impugned order. Therefore, the petition in hand deserves rejection.

10. In view of the prevenient ratiocination, it is ordained thus:

(i) The present petition, seeking cancellation of anticipatory bail granted to respondent No.2, is dismissed.



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

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

(SUMEET GOEL)
JUDGE

January 27, 2026
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No