

CRM-M-35737-2024 and CRM-M-37432-2024

2026:PHHC:040778



101 (2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CRM-M-35737-2024

State of UT Chandigarh
.....Petitioner
versus
Mohan Lal and others
.....Respondents

2. CRM-M-37432-2024

Darshan Singh Kler
.....Petitioner
versus
State of U.T., Chandigarh and others
.....Respondents

Date of decision: March 16, 2026
Date of Uploading: March 17, 2026

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Vinod Ghai, Senior Advocate and
Mr. P.S. Ahluwalia, Senior Advocate with
Mr. Arnav Ghai, Advocate and
Ms. R.S. Bagga, Advocate for the petitioner
(in CRM-M-37432-2024).

Mr. Manish Bansal, Public Prosecutor, U.T., Chandigarh.

Mr. R.S. Rai, Senior Advocate with
Mr. Sushant Kareer, Advocate,
Mr. Abhinav Tyagi, Advocate,
Ms. Radhika Mehta, Advocate and
Mr. Rehan Gupta, Advocate for the private-respondents.

SUMEET GOEL, J. (ORAL)

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By way of the present common judgment, this Court proceeds to decide aforesaid two petitions in hand, since there is commonality and congruity of legal issues therein, as conceded by the learned rival counsel.

For the cause of convenience, the facts are drawn out from CRM-M-35737-2024 titled as State of U.T., Chandigarh versus Mohan Lal and others.

2. Present petition has been filed under Section 528 read with Section 483(3) of the BNSS, 2023, seeking setting aside of the order dated 12.04.2024 (Annexure P-2) passed by the learned Additional Sessions Judge, Chandigarh, whereby, petition filed by the private-respondents for grant of anticipatory bail has been allowed, in case FIR No.16 dated 16.02.2024, registered under Sections 406, 420 and 120-B of the IPC, 1860, at Police Station Central Sector-17, Chandigarh.

3. The relevant portion of the order dated 12.04.2024 (Annexure P-2) passed by the learned Additional Sessions Judge, Chandigarh, reads as under:

“19. After hearing the arguments of both sides and the complainant in person, this Court is of the considered opinion that when the applicants-accused persons have already joined the investigation, no useful purpose shall be served by arresting and detaining them in custody. It is the case of the prosecution that the questionnaire supplied by the Investigating Officer to the applicants-accused persons was not replied properly by them, but when the applicants-accused persons have replied the same and the reply is not suiting the version of the complainant, it cannot be said that they have not cooperated in the investigation. The complainant has stated that he came to know about his forged signatures in Axis Bank in the month of December 2021. However, even thereafter he continued business with the applicants-accused persons and did not take any action immediately. Moreover, the alleged forged signatures of the complainant are not on the account opening form as mentioned in the reply and as argued on behalf of the prosecution, rather these are on some other documents submitted in the bank. The complainant had filed the present complaint before Inspector

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General of Police, Chandigarh on 08.06.2023. Admittedly, on 22.07.2023, the complainant had got the matter compromised with the applicants-accused persons. It is a separate matter that now he is saying that the said compromise was got effected from him by showing the fear of imposition of huge penalty on the firm. Admittedly, he had got freeze the accounts of the firm in the bank and had got the same defroze at that time by mentioning that the disputes between the partners had been resolved.

20. As per the version of the applicants-accused persons, the firm went into losses due to new Excise Policy of Delhi and the matter is also being investigated by Enforcement Directorate as well as Central Bureau of Investigation, wherein also they have supplied the requisite documents to these agencies. The allegations and counter allegations are there on the part of both sides. The applicants-accused persons have joined the investigation and had admittedly joined the enquiry also which was being conducted prior to registration of the FIR. They are ready to join the investigation in future also. They are residents of Delhi only. Even otherwise, the offences as alleged to have been committed by the applicants/accused are not punishable with imprisonment for more than 7 years and the case is Magisterial trial, thus the same is squarely covered under the directions as given by the Hon'ble Supreme Court of India in Armesh Kumar Vs. State of Bihar and another, Criminal Appeal No.1277 of 2014, decided on 02.07.2014."

4. Learned Senior counsel for the petitioner(s)–complainant (in CRM-M-37432-2024), as well as learned counsel for the U.T., Chandigarh, have vehemently contended that the Court below has failed to properly appreciate the seriousness and gravity of the allegations while passing the impugned order. Learned counsel have further submitted that the complainant has been cheated of a whopping amount of Rs.17.36 crores (as principal amount) on account of an orchestrated and well-planned fraud allegedly hatched by the private respondents, whereby they deceived the complainant into making substantial financial contributions under the false pretext of increasing his shareholding in the business. It has also been alleged that the accused persons forged the signatures of the complainant and siphoned off funds from the bank accounts without his knowledge or consent. Learned counsel have further argued that the learned trial Court,

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while allowing the application of the private respondents for grant of anticipatory bail, failed to take into consideration that the present case pertains to a grave 'economic offence', which has far-reaching consequences and, therefore, does not warrant the grant of anticipatory bail in a routine manner. It has been further contended that during the period between March and April, 2022, private respondent Mohan Lal, in a clandestine and surreptitious manner, allegedly misappropriated/embezzled an amount exceeding Rs.8 crores from the funds of the Limited Liability Partnership (LLP), which compelled the complainant to confront the accused persons with documentary evidence and to freeze the bank accounts maintained with Axis Bank and HDFC Bank, in order to prevent further dissipation and diversion of funds. Learned counsel have further contended that the learned trial Court has not properly appreciated the stand of the Investigating Officer, particularly with regard to the evasive and non-cooperative responses given by the accused persons during investigation, and instead proceeded to conduct a 'mini trial' at the stage of consideration of anticipatory bail, which is impermissible in law. It has been further argued that the complainant was induced, on the false assurance of increased shareholding on paper, to transfer a staggering amount of approximately Rs.15 crores, whereas, on the other hand, the revised partnership agreement dated 10.05.2022 was never executed or registered with the Registrar of Companies, thereby exposing the fraudulent intent of the accused persons from the very inception. Learned counsel have further argued that on

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16.07.2021, private respondent Mohan Lal forged the signatures of the complainant with a dishonest intention to cheat him and siphon off funds, thereby committing serious offences. It has also been argued that the accused persons have no locus standi to question the jurisdiction of the Chandigarh Police, particularly when part of the cause of action has arisen within the territorial jurisdiction of Chandigarh and the consequences of the alleged offence have also ensued therein. Learned counsels have further argued that, in view of the aforesaid submissions, the impugned order suffers from patent non-application of mind and is a cryptic and non-speaking order, which fails to consider the material aspects of the case as well as the seriousness of the allegations levelled against the private respondents. It has been further contended that, given the magnitude and gravity of the alleged economic offence, the learned Court below ought not to have granted the concession of anticipatory bail in a routine or mechanical manner. Accordingly, it is prayed that the impugned order granting anticipatory bail to the private respondents be set aside and the said respondents be taken into custody in accordance with law.

5. On the other hand, learned senior counsel for the private respondents has vehemently opposed the present petition(s) by contending that the learned Court below has passed the impugned order after due consideration of the material available on record, upon proper application of judicial mind, and after duly appreciating the facts and circumstances of the case, and, therefore, the same does not warrant any interference by this

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Court. Learned counsel has further submitted that the present petition(s), seeking setting aside of anticipatory bail, are misconceived, devoid of merit, and amount to an abuse of the process of law. According to learned senior counsel, the concession of anticipatory bail was granted to the private respondents after taking into account the nature of allegations, the stage of investigation, and the submissions advanced by the respective parties, and the said discretion has been exercised in a judicious and reasoned manner. It has further been contended that no allegation whatsoever has been levelled by the prosecution to the effect that the private respondents have misused the concession of bail, violated any of the conditions imposed by the Court, or attempted to influence or intimidate the witnesses. Learned counsel has further argued that the petitioner has failed to demonstrate the existence of any exceptional or supervening circumstances which may warrant interference with the well-reasoned order granting anticipatory bail to the private respondents. It is thus submitted that in the absence of any material indicating misuse of liberty or obstruction of the course of justice, no ground is made out for setting aside of anticipatory bail. Accordingly, learned senior counsel has prayed that the present petition(s), being devoid of merit, deserve to be dismissed.

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

7. At this juncture, it would be apposite to note that the expression “setting aside of a bail order” denotes annulment of an order granting bail on

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the ground that the same suffers from legal infirmity. It postulates that the order granting bail is rendered unsustainable in law on account of non-application of judicial mind, consideration of irrelevant or extraneous factors, or omission to take into account material aspects having a direct bearing on the grant of bail. While dealing with such a plea, the Court is required to examine the legality, propriety and soundness of the order under challenge to ascertain whether the discretion vested in the Court granting bail has been exercised judiciously and in accordance with settled legal principles. In essence, setting aside of a bail order amounts to a judicial determination that the discretion exercised was either arbitrary or not founded on relevant considerations, thereby warranting interference to uphold the administration of criminal justice and to prevent miscarriage of justice.

8. A profitable reference can be made herein to the 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.*

XXXX	XXXX	XXXX	XXXX
XXXX	XXXX	XXXX	XXXX

V. *Plea seeking setting aside of an anticipatory bail/pre-arrest bail order*

- (i) *A plea seeking setting aside of an anticipatory bail/pre-arrest bail order by a Sessions Court has to be essentially filed before High Court.*
- (ii) *The factor, required to be considered in a plea seeking setting aside of an anticipatory/pre-arrest bail order; is as to whether the impugned order (granting anticipatory bail/pre-arrest bail) has objectively dealt with nature and gravity of allegations against accused, role of accused in the crime(s) alleged, need for custodial interrogation, likelihood of accused influencing the investigation/witnesses, likelihood of the accused absconding from process of justice etc.”*

9. The averments made in the present petition(s), as well as the arguments raised by learned counsel for the petitioner(s), indubitably reflect that the instant petition(s) have been filed seeking setting aside of the order granting anticipatory bail to private respondents vide impugned order dated 12.04.2024 (Annexure P-2) passed by the learned Court below. It is pertinent to note that it is not even the case of the petitioner(s) that the private respondents have misused the concession of anticipatory bail by threatening or intimidating the witnesses, or by attempting to influence the investigation or the trial in any manner. It is trite law that the considerations governing the grant of bail and those governing the cancellation/setting aside thereof operate in distinct and separate spheres. While considering a plea for setting aside of an order granting anticipatory/pre-arrest bail, the Court is required to examine whether the impugned order reflects due and proper

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application of judicial mind and whether the relevant factors have been duly taken into consideration. Such factors include the nature and gravity of the allegations, the specific role attributed to the accused, the necessity of custodial interrogation, the likelihood of the accused influencing the investigation or tampering with prosecution evidence, and the possibility of the accused absconding or evading the process of law. It is well settled that an order granting bail is a discretionary order, however, such discretion must be exercised judiciously, cautiously, and upon due consideration of the material available on record. The Court, while examining a plea for setting aside of a bail order, is empowered to scrutinize the legality, correctness and propriety of the order granting bail. If it is found that the Court granting bail has ignored relevant and material considerations, has taken into account irrelevant factors, or the order reflects non-application of judicial mind to the facts and circumstances of the case, the same can be interfered with and set aside in order to prevent miscarriage of justice.

9.1 Further, setting aside of the impugned order has been sought on the ground that the impugned order suffers from non-application of mind and is a completely non-speaking order. A perusal of the impugned order shows that the learned Court below has, while granting concession of anticipatory/pre-arrest bail to the private-respondents, duly considered the relevant parameters governing the grant of such relief. The learned Court objectively examined the nature and gravity of the allegations as well as the role attributed to the private-respondents in the alleged offence(s) and found

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that the material placed on record did not disclose such circumstances which would necessitate their custodial detention. The Court below also took into consideration that no compelling case was made out by the prosecution demonstrating the necessity for custodial interrogation of the private-respondents at that stage of investigation. The impugned order also reflects due consideration of the apprehension regarding the private-respondents influencing the investigation or tampering with witnesses, and the Court found no since the private-respondents had already joined investigation, therefore, no useful purpose would be served by arresting/ detaining them in custody. Additionally, the learned Court below considered the possibility of the private-respondents absconding from the process of justice and found the apprehension to be unfounded in view of their permanent residence and expressed willingness to cooperate with the investigation. Thus, the impugned order clearly demonstrates that the learned Court below applied its judicial mind to all relevant considerations and exercised its discretion in a reasoned and judicious manner while granting anticipatory/pre-arrest bail to the private-respondents.

9.2. Indubitably, the petition(s) in hand have been preferred for setting aside of the bail order and not for cancellation thereof. However, this Court cannot be oblivious of the fact that, in the present case, the concession of anticipatory bail was granted by the Court below, vide order dated 12.04.2024 and it is significant to note that almost 02 years have passed away since the grant of said concession, yet no allegation, whatsoever,

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regarding misuse of said concession has been brought to the notice of this Court. It is further, not in dispute before this Court that investigation *qua* FIR in question has not yet been concluded. However, despite the lapse of considerable time, no material has been placed on record to demonstrate that the private-respondents have attempted to abscond or tried to influence or intimidate the witness(s), after the grant of anticipatory bail.

10. This Court does not find that the impugned order is unjustified or illegal or not based on relevant consideration(s). Therefore, the contention raised by the learned counsel for the petitioner(s) that the impugned order suffers from non-application of mind or is a non-speaking order is wholly misconceived and devoid of merit. 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 the Court below, while passing the impugned order, has not exercised its jurisdiction in right perspective. Therefore, the petition(s) in hand deserves rejection.

11. Keeping in view the entirety of the facts and circumstances of the case in hand, no ground is made out to setting aside of anticipatory bail earlier granted to the private-respondents, vide the impugned order. Therefore, the petition(s) in hand deserves rejection.

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

- (i) The petition(s), seeking setting-aside of anticipatory bail granted to private-respondents, are **dismissed**;

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- (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

March 16, 2026
mahavir

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