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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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Vijay Kumar

...Petitioner

V/s

State of Haryana and another

...Respondents

**Date of decision: 29.01.2026****Date of Uploading : 29.01.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Jamshed Ahmed, Advocate for the petitioner.

Mrs. Mahima Yashpal, Senior DAG Haryana.

Mr. Nikhil Ghai, Advocate for respondent No.2.

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**SUMEET GOEL, J. (Oral)**

1. Present petition has been filed under Section 439(2) read with Section 482 of Cr.P.C. and Section 483(2) read with Section 528 of BNSS, 2023, seeking cancellation of anticipatory bail granted to respondent No.2 vide order 20.07.2023 and 20.09.2023 passed by this Court in FIR No.88 dated 16.05.2023 registered for offences punishable under Sections 420, 457, 384, 467, 419, 471, 201, 120-B, 341, 389 and 34 of IPC at Police Station Nagina, District Nuh (Mewat).

2. Briefly stated, the FIR in question was registered on the basis of complaint moved by the petitioner alleging therein that on 29.03.2023, three persons came to his house in a Tata Harrier car bearing registration No. CH-01-CJ-7254 and posed as officers of the Enforcement Directorate. Thereafter, they threatened him with false implication in a tax case. It was further alleged that the accused demanded a sum of ₹5,00,000/-, out of which ₹2,50,000/- was paid by the complainant. However, on subsequent



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raid was conducted and the accused were impersonating as ED officials which led to registration of the FIR in question. During the course of investigation, co-accused Inzamam-ul-Haq @ Inzu was arrested and recoveries were effected.

3. Vide order dated 20.07.2023 passed by Coordinate Bench of this Court, the respondent No.2 was granted the concession of interim anticipatory bail and the same was confirmed vide order dated 20.09.2023.

The relevant of the said order reads thus:

*“8. The factum of joining investigation by the petitioner in pursuance of the order passed by this Court is not disputed by learned State counsel as well as learned counsel for the complainant. So far as the point of recovery of Rs. 2,50,000/- is concerned, there is no material to indicate that complainant was having ash amount of Rs.2,50,000/- or that any money was paid to the petitioner.*

*9. Be that as it may, all these allegations are to be proved beyond reasonable doubt by the prosecution before learned trial Court, after leading evidence.*

*10. In view of above, interim order dated 20.07.2023 is made absolute, subject to the conditions as envisaged under Section 438(2) Cr.P.C.*

*11. It is also made clear that petitioner shall fully co-operate with the Investigating Officer as and when called for further investigation in the matter.*

*12. The above observations may not be construed as an expression of opinion on merits of the case; rather confined only to decide the present bail matter.*

*13. Disposed off accordingly.”*

4. Learned counsel for the petitioner has iterated that the anticipatory bail granted to respondent No.2 (herein) deserves to be cancelled as he has grossly misused the concession of bail. Learned counsel has further iterated that immediately after obtaining the concession of anticipatory bail, respondent No.2 started pressuring and intimidating the



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petitioner to withdraw the FIR and to make statements in his favour which is clear violation of the conditions imposed under Section 438(2) Cr.P.C. Learned counsel has further submitted that respondent No.2 alongwith 4-5 associates came to the workplace of the petitioner abused him and extended threats to withdraw the case. According to learned counsel, despite lodging complaints with the local police as well as higher police authorities, no effective action has been taken. Learned counsel has emphasized that the offence in question is grave and serious in nature involving impersonation of public officials, extortion and forgery and that the continued protection to respondent No.2 would seriously prejudiced a fair trial. On the strength of these submissions, learned counsel has prayed for cancellation of anticipatory bail granted to respondent No.2.

5. Learned State counsel has raised submissions in tandem with the reply dated 29.11.2025/01.12.2025 filed by way of affidavit of Ajaib Singh, Deputy Superintendent of Police, Ferozepur Jhirka; the relevant whereof reads as under:

*“9. That thereafter, a Special Investigation Team was constituted by the Superintendent of Police, Nuh vide order no. 4077-79/Reader dated 14.07.2023. The investigation was conducted by SI Rajbir Singh. The respondent no. 2/ accused Anil Kumar Kaushik was joined in the investigation on 04.09.2023 in pursuance of interim bail granted to him by this Hon'ble Court vide order dated 20.07.2023 in CRM-M No. 30466 of 2023. He got recovered the mobile phone Redmi Note- 5 along with sim no. 8816992222 and 874588628, photocopy of ID Card, photocopy of Registration Certificate of Aastha Hindustan Jan Kalyan Organisation, photocopy of complaint of Hamid. The same were taken into police possession. Accused Anil Kaushik was found to have destroyed his fake ID Card and fake stamp of ED. Section 201 IPC was added in the present case. He was released on furnishing requisite bail bonds. His bail was made absolute by this Hon'ble Court vide order dated 20.09.2023.*



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10. That the accused Sohrab Khan was joined in the investigation on 14.12.2023 in pursuance of anticipatory bail granted to him by this Hon'ble Court. He was released on furnishing requisite bonds. Accused Monu is yet to be arrested.

11. That the challan against the respondent no. 2 Anil Kumar Kaushik and other accused Inzamam-ul-haq @ Inzu and Sohrab Khan was submitted in the Ld. Court on 23.01.2024. The charges were framed on 06.11.2025. Now, the trial is pending in the Court of Ld. JMIC, Ferozpur Jhirka and is fixed for 04.12.2025 for prosecution evidence. There are total 14 PWs and none has been examined.

12. That the role of the respondent no. 2/ accused Anil Kumar Kaushik in the present case is that he along with other accused visited the house of the complainant / petitioner by posing as fake ED officer and demanded Rs.5 Lakhs from the complainant for not taking any action. He obtained Rs.2.5 Lakhs cash from the petitioner. He had given Rs.25,000/- to accused Inzamam.”

6. Learned counsel appearing for respondent No.2 has iterated that the present petition is misconceived and an abuse of the process of law. Learned counsel has further contended that the petitioner is seeking cancellation of anticipatory bail on the basis of vague, bald and unsubstantiated allegations without placing on record any cogent material to demonstrate violations of the conditions imposed by this Court. Furthermore, the respondent No.2 was granted the concession of anticipatory bail after due consideration of the facts and circumstances of the case and he has scrupulously complied with all the conditions imposed under Section 438(2) Cr.P.C. Furthermore, respondent No.2 has joined the investigation, cooperated with the Investigating Officer and effected recoveries and there is no allegation that he ever absconded. Learned counsel has urged that this Court, while granting the anticipatory bail to respondent No.2, took into consideration all the relevant factors. Moreover, once the anticipatory bail has been granted by the Court, the same will only



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be cancelled upon showing cogent and overwhelming circumstances. Thus, dismissal of the instant petition is entreated for.

7. I have heard learned counsel for the parties and have gone through the available records of the case.

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

“12. The concept of “cancellation of bail” is statutorily manifested in terms of Section 439 (2) of 1973 Code. This concept was embodied in the earlier statute i.e. 1898 Code as well albeit with difference(s). The ratio decidendi of judgment in case of ***Gurcharan Singh*** (supra) makes it clear that, in the 1898 Code, the bail granted by the High Court could be cancelled only by it & bail granted by a Sessions Court could be cancelled by such Sessions Court only. However, Section 439(2) of 1973 Code has vested power to cancel bail which has been granted “under this chapter” upon both the High Court as also the Sessions Court. The words “under this Chapter” relates to Chapter XXXIII of Cr.P.C. of 1973 & hence the unequivocal result thereof is that the High Court as also the Sessions Court have requisite powers to cancel “any bail” granted by “any Court” by way of powers vested under this Chapter. In other words; the High Court is well empowered to cancel a bail granted by itself or by a Sessions Court or by the Court of a Magistrate while the Sessions Court is empowered to cancel a bail granted by High Court or by itself or by a Magistrate. However, a Sessions Court can cancel bail granted by High Court only on account of supervening/new circumstances or on account of misconduct of such accused or on account of violation of any condition(s) imposed by the High Court while granting bail. The Magistrate can, of course, cancel bail granted by him but he cannot cancel a bail granted by High Court or Sessions Court except when such accused has violated/contravened any condition(s) imposed upon by such High Court or Sessions Court while granting bail to such accused. This position, is indubitable, as a Magistrate has been vested with powers for cancellation of bail only in terms of Section 437(5) of 1973 Code whereas the High Court and Sessions Court have been vested with



*powers under Section 439 of Cr.P.C., of 1973 to cancel “any bail granted under Chapter XXXIII of 1973 Code”.*

*12.1 Section 439(2) of Cr.P.C., 1973 deals with “any person who has been released on bail under this Chapter” i.e. Chapter XXXIII of 1973 Code, which engirths in itself, Section 438 of the Code (provision envisaging anticipatory bail/pre-arrest bail) as well. Hence such power operates in realm of all kinds of bails, whether regular bail or anticipatory bail. Ergo, there is no conceptual difference between cancellation of regular bail and cancellation of anticipatory bail except that a Magistrate will not have statutory power to cancel an anticipatory bail granted by High Court or Sessions Court.*

*12.2. At this juncture, it would be profitable to consider an issue often springing up before Courts. Petition(s) labelled as plea(s) for “cancellation of bail” are filed in Court(s), more often than not, whether such applicant is actually seeking “cancellation of bail” on account of the accused misusing the grant of bail or on account of any supervening developments disentitling such accused to remain on bail OR where the plea raised is that, the bail ought not to have been granted at all vide the impugned order, in the factual conspectus of such case. The 1973 Code neither stipulates the words “cancellation of bail” nor “setting-aside of a bail order” but only stipulates the words “any person who has been released on bail be arrested and committed to custody”. There is no gainsaying that there is a foundational difference between “cancellation of bail” and “setting-aside of a bail order”; a difference which, by way of simile, can be said to be as stark as between chalk and cheese. The Hon’ble Supreme Court in cases of **Ranjit Singh** (supra) and **Neeru Yadav** (supra) has incontestably articulated that “cancellation of bail” is sought for on account of supervening circumstances/subsequent developments/misconduct of accused etc. whereas “setting-aside of a bail order” is sought for by laying challenge to the said bail order on ground of it being perverse or based on irrelevant material(s). The parameters for consideration of the two are, accordingly, different and contrastive.*

*13. The next aspect that craves attention is as to what are the factors relevant for considering of a plea for “cancellation of bail” or “setting-aside of a bail order.” At the very outset; it deserves to be noted that, it is too far well settled a principle to be ratiocinated upon, that consideration(s) for grant of bail vis.-a-vis. cancellation/setting-aside thereof are entirely different.*

*14. In a plea seeking “cancellation of bail”; such applicant ought to show, primarily, subsequent supervening circumstances such as accused*



*having endeavored to influence/intimidate witness(s) or accused having violated bail condition(s) or accused having committed another offence(s) or accused having secured bail by misrepresenting/concealing material fact(s) or bail having been granted in ignorance/violation of statutory provisions and factors of akin nature. The Hon'ble Supreme Court in the case of **Himanshu Sharma** (supra) has delineated the nature and kind of such factors as have been stated by this Court hereinabove.*

14.1. Further, the Hon'ble Supreme Court in the case of **Sanjay Gandhi** (supra) has enounced regarding the nature and degree of burden upon the applicant (seeking cancellation of bail). The plea of such an applicant has to be tested on the anvil of preponderance of probabilities & such an applicant is not required to prove, beyond reasonable doubt, the facts pleaded by him in support of such a plea.

15. In a plea seeking "setting-aside of a bail order"; the factors required to be considered are as to whether bail has been granted on relevant consideration(s); grounds required to be evaluated for grant of bail have been duly factored into the order granting bail and other factors of akin nature. The Hon'ble Supreme Court in the case of **Jagjit Singh** (supra) has held that the High Court or Sessions Court can set-aside an order granting bail passed by an inferior Court if such order is based on irrelevant considerations, order granting bail has resulted in miscarriage of justice etc. It goes without saying that the High Court or Sessions Court; while dealing a plea for setting-aside a bail order; sits in a jurisdiction, which is akin to appellate jurisdiction & hence it can look into the veracity and propriety of the order (granting bail) from all the perspectives. However, a Court while dealing with such a plea, ought not to substitute its own opinion with the one expressed in the impugned order.

16. It would not be pragmatic to even attempt to lay-down exhaustive parameters in this regard as every case, especially a criminal case, is sui generis. Such a quixotic attempt ought to be avoided as no inexorable formulae can be laid down in this regard.

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.*

### *III. Plea seeking setting-aside of regular bail order.*

*(i) A plea seeking “setting-aside of a bail order” has to be essentially filed in the Court, superior to the one which has granted bail.*

*(ii) In case setting-aside of a bail order granted by the Magistrate’s Court is sought for, such plea ought to be ordinarily filed before the Sessions Court. 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.*

*(iii) For setting-aside a bail order passed by a Sessions Court; such plea, but of-course, will have to be filed before the High Court.*

### *IV. Plea seeking cancellation of anticipatory bail/pre-arrest order*

*(i) A High Court has power to cancel an anticipatory bail granted by it or by a Sessions Court.*

*(ii) A Sessions Court has power to cancel an anticipatory bail granted by High Court or earlier granted by it. However, the Sessions Court can cancel anticipatory bail granted by High Court only where the accused has violated any condition(s) imposed by the High Court (while granting such 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 anticipatory bail granted to an accused by High Court only on account of such likes supervening/subsequent events but cannot adjudicate upon veracity of the High Court order (whereby such bail was granted to such accused.)*



(iii) *In case cancellation of an anticipatory bail granted by Sessions Court is sought for; such plea ought to be filed ordinarily before 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. of 1973, the filing of such a plea straight away before the High Court is not barred. At the same time, it would be expedient that such a plea (straight away filed before High Court) must show cogent reasons for not approaching the Sessions Court in first instance.*

(iv) *The factors for consideration in a plea for cancellation of an anticipatory 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 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.*

(v) *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.*

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

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.*

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.*



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9. The FIR in question was lodged on 16.05.2023 whereinafter investigation ensued and the respondent No.2 (herein) was granted the concession of interim anticipatory bail on 20.07.2023 and the same was confirmed vide order dated 20.09.2023. It is worthwhile to note herein that it is neither the stand of the State that the respondent No.2 have misused the concession of anticipatory bail granted by this Court by threatening/intimidating the witness(s) or by trying to influence the investigation/trial etc. It is well settled that the cancellation of bail stands on a different footing from the initial grant of bail. In the present case, the allegations regarding threats and pressure are primarily based on complaints made by the petitioner. However, no material has been placed on record to *prima facie* establish that respondent No.2 has influenced witnesses or obstructed the course of justice in the pending trial. Furthermore, the seriousness of the offence, by itself, is not a ground seeking cancellation of bail, once the accused has been found entitled to the concession of anticipatory bail and has complied with the conditions imposed therein. In the absence of any clear, cogent and convincing material showing violation of bail conditions or misuse of liberty by respondent No.2, this Court does not find any justification to exercise the extraordinary power of cancellation of anticipatory bail. Moreover, there is nothing on record to suggest that the respondent No.2 has misused the concession of bail. It is trite law that anticipatory bail cannot be cancelled merely on re-appreciation of facts already considered at the time while granting the same unless there is abuse of the liberty so granted.

10. In the absence of any cogent material to show that respondent



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investigation, no case is made for cancellation of anticipatory bail. 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 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 set-aside the anticipatory bail earlier granted to respondent No.2 vide the impugned order. Therefore, the petition in hand deserves rejection.

12. As a sequel to the above discussion, the present petition, seeking cancellation of anticipatory bail passed by this Court, is dismissed.

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

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

(SUMEET GOEL)  
JUDGE

January 29, 2026  
*Ajay*

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No