



CRM-M-50624-2024

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

107-1

CRM-M-50624-2024

Brij Mohan Bhandari

...Petitioner

V/s

State of Punjab and others

...Respondents

Date of decision: 27.02.2026**Date of Uploading : 27.02.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Venu Gopal Jauhar, Advocate for the petitioner.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. Arzoo Modi, Advocate for respondent No.4.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439(2) read with Section 482 of the Cr.P.C. seeking cancellation of regular bail granted to respondent No.4 vide order dated 08.05.2024 (Annexure P-2) passed by Additional Sessions Judge, Sangrur in FIR No.17 dated 12.02.2024 registered for offences punishable under Sections 420 and 406 of IPC and Section 66(D) of IT Act at Police Station City Dhuri.

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

“5. Record reveals that accused/applicant is undergoing custody since 21.02.2024, who is no more required for custodial interrogation. Co-accused has already been granted regular bail. Presentation of challan and conclusion of trial shall take considerable long time and no useful purpose will be served by detaining the accused/applicant behind bars. As such, instant bail application is allowed and accused/applicant is ordered to be released on bail on his furnishing bail bonds to the satisfaction of Illaqa/Duty Magistrate with the



CRM-M-50624-2024

2

conditions that applicant/accused will neither leave the country without prior permission of the Court nor he will tamper with the witnesses of the prosecution and he will appear before the Court on each and every date of hearing. Accordingly, bail application is allowed. Record be returned and bail application filed be consigned to the record room.”

3. Learned counsel for the petitioner has iterated that the impugned order passed by the Court below granting regular bail to respondent No. 4 is illegal, perverse and liable to be set aside as the same has been passed without proper appreciation of the material collected during investigation. Learned counsel has further iterated that respondent No. 4 is the main accused who, by impersonating himself as a broker connected with the Bombay Stock Exchange and misrepresenting his association with a fictitious entity styled as “Choice Traders,” induced the petitioner to part with a huge amount of ₹1,39,01,800/-. Learned counsel has emphasized that the respondent No.4 has obtained the e-mail credentials and PIN of the petitioner and, in active connivance with co-accused, caused the funds to be transferred into multiple bogus bank accounts. According to learned counsel, the magnitude of the fraud, the organized manner in which the offence was committed and the use of fictitious accounts clearly demonstrate that the offence is grave in nature. Furthermore, the Court below has failed to consider that a substantial part of the cheated amount is yet to be recovered and the money trail is still under investigation. As further investigation is in progress whereinafter supplementary report has to be filed and in such circumstances, the release of respondent No. 4 on regular bail seriously prejudices the ongoing investigation and creates a likelihood of tampering with electronic and documentary evidence as well as influencing witnesses particularly when the *modus operandi* involves

**CRM-M-50624-2024****3**

digital access and multiple bank accounts. It has been further contended that the respondent No. 4 has remained in custody for only about 03 months before being enlarged on regular bail, which, in the facts of a fraud exceeding ₹1.39 crores, cannot be treated as a sufficient ground for grant of bail. 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 regular bail granted to respondent No.4 is entreated for.

4. Learned State counsel has iterated that the regular bail has been granted to respondent No.4 by the Court below after considering the fact his custodial interrogation is not required and the trial is likely to take considerable long time. Learned State counsel has further iterated that the accused – respondent No.4 has been regularly appearing before the Court below and has not violated any of the conditions imposed while granting bail. According to learned State counsel, no material has been brought on record to show that the respondent No.4 has attempted to tamper with prosecution evidence, influence witnesses, threaten the complainant, evade the process of law or otherwise misuse the concession of bail. Furthermore, referring to para 4 of the reply filed in Court today, learned State counsel has submitted that matter has already been compromised between the parties. It has been further submitted that after completion of investigation, challan has been presented before the competent Court of jurisdiction on 16.04.2024 whereinafter charges have been framed on 30.04.2025. Furthermore, the allegations made by the petitioner regarding misuse of the concession of regular bail are general in nature and no separate complaint,

**CRM-M-50624-2024****4**

application or supporting material has been placed on record before the Investigating Agency to substantiate the same. Learned State counsel has further submitted that no supervening circumstances have arisen after the grant of regular anticipatory bail which would justify cancellation of regular bail.

5. Learned counsel appearing on behalf of respondent No. 4 has iterated that the present petition seeking cancellation of regular bail is misconceived and is nothing but an attempt to seek review of a well-reasoned order passed by the Court below, which is impermissible in law. Learned counsel has further iterated that the power under Section 439(2) Cr.P.C. is to be exercised only in cases where the accused has misused the concession of bail, interfered with the course of justice or violated the conditions of bail, none of which are alleged or established in the present case. Furthermore, respondent No. 4 has duly complied with all the condition(s) imposed by the Court below and has joined the investigation as and when called by the Investigating Agency. It has been further contended that there is no material on record to show that the respondent No.4 has attempted to influence any witness, tamper with evidence or in any manner obstruct the investigation. Learned counsel has emphasized that the Court below, after considering the period of custody undergone by the respondent No.4 and the stage of the investigation, has rightly granted the concession of regular bail and the said order does not suffer from any illegality or perversity warranting interference by this Court. Moreover, the petitioner has not placed on record any subsequent event or supervening circumstance after the grant of regular bail which would justify cancellation of bail.



CRM-M-50624-2024

5

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

**CRM-M-50624-2024****7**

has been filed for cancellation of the regular bail order granted to the respondent No.4 vide order dated 08.05.2024 (Annexure P-2) passed by Additional Sessions Judge, Sangrur. In the present case, the petitioner has not brought on record any material to demonstrate that after the grant of regular bail, respondent No.4 has attempted to influence witnesses, tamper with evidence or violate any condition imposed by the Court. The apprehensions expressed by the petitioner are largely speculative and not supported by any cogent material. The scope of consideration before this Court, however, is limited. It is trite that the parameters governing cancellation of bail are distinct from those governing grant of bail. Once bail has been granted, it cannot be cancelled in a routine manner unless it is shown that the accused has misused the concession of bail, has attempted to tamper with evidence, has influenced witnesses, has evaded the process of law or that the order granting bail is perverse, illegal or based on wholly irrelevant considerations. A perusal of the impugned order reflects that the Court below has granted the concession of regular bail to respondent No.4 mainly on account of the fact that his custodial interrogation is not required and the progress of the trial. The challan has already been presented and no specific material has been placed before this Court to show that the respondent No.4 has misused the concession of regular bail after his release. There is no allegation that he has absconded, attempted to influence witnesses, tampered with evidence or violated any condition of the bail order. The grounds raised by the petitioner primarily relate to the nature and gravity of the allegations and the merits of the case, which were available at the time of consideration of the bail application and cannot be

**CRM-M-50624-2024****8**

re-agitated in proceedings for cancellation of bail in the absence of any supervening circumstances. The apprehensions expressed by the petitioner are general in nature and are not supported by any specific instance of misconduct on the part of respondent No. 4 after grant of regular bail. It is also not disputed by the State that respondent No. 4 has joined the investigation as and when called and is available to face trial. In such circumstances, this Court does not find any cogent or overwhelming reason to cancel the regular bail granted to him. 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.4 are serious, which according to the petitioner, ought not to have been considered by the Court below at the time of grant of regular 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 without concrete material cannot justify the cancellation of bail.

The order passed by the Court below 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 the Court below, 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 regular bail granted



to respondent No.4 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 Section 439(2) of the Cr.P.C. seeking cancellation of regular bail granted to respondent No.4 vide order dated 08.05.2024 (Annexure P-2) passed by Additional Sessions Judge, Sangrur, 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

February 27, 2026
Ajay

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