

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

104-2

CRM-M No.59584 of 2024 (O&M)

Date of Decision :14.01.2026

Jaswinder Singh @ Jassi**.....Petitioner****Versus****State of Punjab and another****..... Respondents****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH**

Present : Mr. Arjun Sheoran, Advocate and
Ms. Pranhita Singh, Advocate for the petitioner.

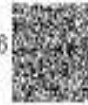
Mr. Eklavya Darshi, DAG, Punjab.

Mr. RVS Chugh, Advocate for respondent No.2.

SURYA PARTAP SINGH, J. (Oral):

This petition under Section 480(5) of the Bharatiya Nagarik Suraksha Sanhita, hereinafter being referred to as BNSS, read with Section 530 of BNSS, has been filed for setting aside the order 26.09.2024 (Annexure P-2), hereinafter being referred to as 'impugned order', passed by the learned Sessions Judge, Mansa. By virtue of above mentioned order the benefit of anticipatory bail was afforded to the respondent No.2.

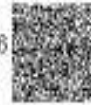
2. Briefly stating the facts emerging from record are that, that for the commission of offence punishable under Sections 420, 406 of IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, the FIR was lodged in Police Station Jaurkian District Mansa against the respondent No.2. The above mentioned FIR was lodged at the instance of 'Jaswinder Singh' hereinafter being referred to as 'complainant'. The allegations contained in the FIR against the petitioner were that he had duped the complainant for a sum of



Rs.17,55,000/- on the pretext of sending the complainant, his wife and daughter to Canada by arranging PR and requisite Visa. According to complainant, since the respondent No.2 could not fulfill his commitment he committed the abovementioned offence.

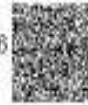
3. It is relevant to mention here that with regard to commission of offence when the police was investigating the matter, the respondent No.2 moved an application for anticipatory bail and the above mentioned application was considered by the learned Sessions Judge Mansa, who by virtue of impugned order admitted him to anticipatory bail. By virtue of impugned order the findings recorded by the learned Sessions Judge, Mansa, are as under:-

“After giving my thoughtful consideration to the rival submissions and on careful perusal of the averments put in the application, contents of the FIR, on perusal of record produced by ASI Satpal Singh, coupled with the assistance rendered, it is apt to make mention that as per the complainant Jaswinder Singh in the year 2021-2022 on the pretext of according PR of Canada and arranging visa for him, his daughter and his wife, the applicant along with others had allegedly duped him and further that as per the complainant neither PR nor visa has been accorded nor amount has been returned. Perusal of contents of the FIR when taken glance of, it substantiates that amount of Rs.17,55,000/- has been allegedly transferred into account of Sikander Singh and further as per complainant, a sum of Rs.4,00,000/- has also been paid by way of cash allegedly to Sikander Singh, who is non-applicant. The factum



regarding the amount having been transferred into account, it specifically relates to Sikander Singh. Hence, taking note of the totality of the facts, the Court is of the opinion that ends of justice shall be squarely met in case applicant is directed to make herself available to facilitate thorough and fair investigation. Custodial interrogation of the applicant as such is not required. The applicant is directed to appear before the SHO/ investigating officer within seven days from today and she shall fully cooperate. On putting in appearance, the applicant shall be admitted to bail on her furnishing the bail bonds in the sum of Rs.50,000/-with one surety in the like sum, to the satisfaction of the Investigating Officer/S.H.O of the concerned police station, with the directions:-

- 1. That the applicant shall not leave the country without prior permission of the court,*
- 2. She shall not tamper with the prosecution evidence even to the slightest,*
- 3. She shall render every possible help during the investigation as and when called upon,*
- 4. She shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.”*

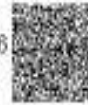


4. The petitioner being complainant is aggrieved of the above mentioned order, hence the present petition for cancellation of bail. It has been alleged by the petitioner that the impugned order has been passed without giving any cogent and legally tenable reasons, and that the benefit of anticipatory bail has been accorded to the respondent No.2 erroneously despite the fact that there were serious allegations against him. According to petitioner, the role played by the petitioner in the commission of offence has been ignored by the learned Sessions Court and without considering the questionable conduct and antecedents of the respondent No.2 the above mentioned benefit has been given to him.

5. Notice of this petition has been served upon the State and the State has already filed its reply. However, the respondent No.2 has not filed any written reply. The learned counsel for the respondent No.2 has opted to orally oppose the present petition.

6. Heard.

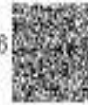
7. It has been contended on behalf of the petitioner that a grave injustice has been caused to the petitioner when without proper appreciation of facts as well as relevant laws the benefit of anticipatory bail has been afforded to the respondent No.2, who had duped the petitioner for a substantial amount of money. According to learned counsel for the petitioner, the respondent No.2 is involved in multiple cases of similar nature, and that in the former case wherein the benefit of anticipatory bail has been afforded to the respondent No.2, the said benefit was afforded only when the respondent No.2 had paid a substantial amount of the money for which the complainant was defrauded. According to learned counsel for the petitioner in the present case any such condition has not been imposed upon the respondent No.2, and therefore, the



impugned order passed by the learned Sessions Judge is not sustainable and deserves to be set aside.

8. In support of his arguments, the learned counsel for the petitioner has referred to the principles of law propounded by the Hon'ble Supreme Court of India in the case of 'Brij Nandan Jaiswal Vs. Munna, (2009) 1 SCC 678', wherein it has been observed that 'it is now a settled law that complainant can always question the order granting bail if the said order is not validly passed. It is not as if once a bail is granted by any court, the only way is to get it cancelled on account of its misuse. The bail order can be tested on merits also. In our opinion, therefore, the complainant could question the merits of the order granting bail. However, we find from the order that no reasons were given by the learned Judge while granting the bail and it seems to have been granted almost mechanically without considering the pros and cons of the matter. While granting bail, particularly in serious cases like murder some reasons justifying the grant are necessary.'

9. In addition to above, the learned counsel for the petitioner has also referred to the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and Anr. 2004(2) RCR (Criminal) 254', wherein it has been observed that 'the law in regard to grant or refusal of bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence. Any order devoid of such



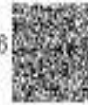
reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

- (a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence;
- (b) Reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;
- (c) Prima facie satisfaction of the Court in support of the charge;

10. According to learned counsel for the petitioner the observations made by the Hon'ble Supreme Court of India in the case of 'Union of India Vs. Hassan Ali Khan and Anr (2011) 12 SCC 685', is also relevant wherein it has been observed that 'as far as Mr. Bagaria's submissions regarding Section 439(2) Cr.P.C. are concerned, we cannot ignore the distinction between an application for cancellation of bail and an appeal preferred against an order granting bail. The two stand on different footings. While the ground for cancellation of bail would relate to post-bail incidents, indicating misuse of the said privilege, an appeal against an order granting bail would question the very legality of the order passed. This difference was explained by this Court in State of U.P. Vs. Amarmani Tripathi [(2005) 8 SCC 21].

11. In view of above mentioned arguments, the learned counsel for the petitioner has sought for setting aside of impugned order and thereby cancellation of bail accorded to the respondent No.2.

12. The learned counsel for the respondent No.2 has controverted the above mentioned arguments. It has been contended by learned counsel for the respondent No.2 that in the present case the benefit of anticipatory bail has



been afforded to the respondent No.2, in the exercise of its discretion and that while affording the abovementioned benefit, the learned Court of Sessions neither exceeded its jurisdiction nor it indulge in the exercise of jurisdiction which was not vested in it. As per learned counsel for the respondent No.2 proper reasoning has also been given in the impugned order.

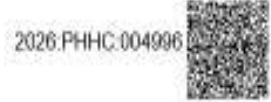
13. The learned counsel for the respondent No.2 has also contended that once a valid jurisdiction in a judicious manner has been exercised by the learned Court of Sessions the petition for cancellation of bail is maintainable only in two circumstances, *firstly*, that there is violation of any condition imposed by the Court granting bail and *secondly*, an error of judgment has been committed.

14. In addition to above, the learned counsel for the respondent No.2 has also argued that in the present case the contents of entire petition nowhere reveals that any condition imposed by the learned Sessions Court has been violated by the respondent No.2, in any manner, whatsoever, or that any relevant aspect has not been considered.

15. The record has been perused carefully.

16. In the present case, the offence for which the respondent No.2 is being prosecuted is an offence which is triable by the Court of Magistrate. The record also shows that the basic dispute between the parties is with regard to failure of the respondent No.2 to return money to the petitioner. Thus *prima facie*, it seems to be a dispute of civil nature between the parties, which has been given the colour of criminal case.

17. A bare perusal of the contents of petition nowhere shows that the learned trial Court committed any error of judgment while according the



benefit of bail either by exercising the jurisdiction which was not vested in it, or it passed the order without application of judicial mind. It is settled principles of law that once the benefit of bail has been accorded to the co-accused unless there are some cogent and convincing reasons the same cannot be withdrawn merely on the asking of aggrieved party.

18. If the factual matrix of the present case is analysed in the light of principles of law laid down in the cases of ‘Brij Nandan Jaiswal’ (supra), ‘Kalyan Chandra Sarkar’ (supra) and ‘Hassan Ali Khan’ (supra), it transpires that facts and circumstances pertaining to the present case are altogether different and distinguishable. Thus, the petitioner is not entitled to draw any benefit from the principles of law propounded by Hon’ble Apex Court in the above mentioned case.

19. As a sequel to observations in the foregoing paragraphs, it is apparent that the petitioner has failed to plead and prove any ground which may justify the instant request for cancellation of bail. Hence, it is hereby held that the present petition is devoid of merit and deserve dismissal. The same is hereby dismissed accordingly.

20. It is, however, clarified that any observations recorded in this order shall have no bearing on the merits of the case.

(SURYA PARTAP SINGH)
JUDGE

14.01.2026
Manoj Bhutani

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