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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 620/2024

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.....Petitioner

Through: Mr. Shashi Shanker, Ms. Pooja and
Mr. Rakshit Kumar Jha, Advocates

versus

STATE, GOVT. OF NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Raj Kumar, APP for the State
with SI Vinod Kumar, P.S. Mehrauli
Ms. Ahana Singh Rathore, Advocate
for R-2

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER
20.01.2026

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1. The present petition has been filed – on behalf of the victim in case FIR bearing no. 204/2023, registered at Police Station Mehrauli, Delhi, for commission of offence punishable under Sections 354/420/406/506 of the Indian Penal Code, 1860 [hereafter ‘IPC’] – praying for setting aside the order dated 11.10.2023 passed by the learned ASJ (SFTC), South District, Saket Courts, Delhi [hereafter ‘Sessions Court’] *vide* which the application filed by the petitioner-victim, seeking cancellation of anticipatory bail granted to the respondent no. 2/accused *vide* order dated 18.09.2023, was dismissed by the learned Sessions Court.

2. The learned counsel appearing on behalf of the petitioner submits that anticipatory bail in the present case was granted to respondent no. 2 without



due consideration of the grave and serious nature of the allegations levelled against him. It is further contended that the learned Sessions Court, while granting anticipatory bail, failed to take note of the fact that respondent no. 2 had not repaid the alleged cheated amount, despite having assured the victim to do so by way of an undertaking given before the police station.

3. The learned APP for the State submits that although the allegations against the accused are serious in nature, anticipatory bail was granted to him by the learned Sessions Court. He however submits that the victim had filed an application seeking cancellation of bail before the same Court, which came to be dismissed by way of the impugned order.

4. *Per contra*, the learned counsel appearing for respondent no. 2/accused opposes the present petition and submits that anticipatory bail was granted by the learned Sessions Court by a detailed and well-reasoned order. It is stated that the accused has joined the investigation and has cooperated with the investigating officer, and that more than two and a half years have elapsed since the grant of anticipatory bail. It is therefore contended that no ground is made out for cancellation or setting aside of the order granting bail, and the present petition deserves to be dismissed.

5. This Court has **heard** arguments addressed on behalf of the petitioner, State and respondent no. 2, and has gone through the material on record.

6. In the present case, the application filed by the petitioner-victim seeking cancellation of anticipatory bail was dismissed by the learned Sessions Court *vide* the impugned order dated 11.10.2023. In the said order, the learned Sessions Court rightly noted that the primary ground urged by the petitioner was that the allegations against the accused were serious in



nature and that anticipatory bail had been erroneously granted. The learned Sessions Court further took note of the settled position of law that though a victim is entitled to approach the same court which has granted bail for cancellation thereof in case of violation of bail conditions or misuse of liberty, where the grievance raised is that the bail order itself is illegal or perverse, the proper remedy lies before the superior court. Since the grievance of the petitioner was essentially founded on the alleged perversity of the order granting anticipatory bail, the learned Sessions Court rightly declined to entertain the application. In view thereof, this Court finds no infirmity in the impugned order dated 11.10.2023.

7. Insofar as the order dated 18.09.2023 granting anticipatory bail to respondent no. 2 is concerned, the learned Sessions Court took note of the following aspects while passing the said order – that the initial complaint dated 17.10.2022 primarily alleged a financial dispute arising out of a gym partnership and did not contain any allegation of molestation or sexual misconduct; that as per the police record, the complainant had signed a partnership agreement granting her 70% rights and profits in the gym, and she being an educated person, had signed a typed document consciously; that the complainant had admittedly received the partnership agreement on 04.10.2022 and was aware that the arrangement pertained to a partnership in profits and not sale of property, yet the complaint was lodged subsequently, indicating delay; that the dispute appeared to be predominantly civil and commercial in nature, stemming from breakdown of a business arrangement; that the accused had joined the investigation, had cooperated with the investigating agency, and had expressed willingness to continue to do so and his custodial interrogation was not warranted in the facts and circumstances



of the case.

8. Therefore, this Court is of the considered view that the order granting bail to the respondent no. 2 is a detailed and well-reasoned order, as noted above. The material on record demonstrates that relevant factors were duly considered by the learned Sessions Court while granting bail. Merely because the recovery of the alleged cheated amount has not been effected, or that the accused did not return the said amount despite having assured the complainant to do so, cannot by itself render the order granting anticipatory bail illegal or perverse so as to warrant its setting aside, especially several other factors were noted and considered by the Sessions Court while granting bail.

9. The law with respect to cancellation of bail is well settled. Bail once granted is not to be cancelled in a routine manner. The principles governing cancellation of bail/setting aside of bail order, as elucidated by the Hon'ble Supreme Court in ***Deepak Yadav v. State of Uttar Pradesh: (2022) 8 SCC 559***, are set out below:

“31. It is no doubt true that cancellation of bail cannot be limited to the occurrence of supervening circumstances. This Court certainly has the inherent powers and discretion to cancel the bail of an accused even in the absence of supervening circumstances. Following are the illustrative circumstances where the bail can be cancelled:-

- a) Where the court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.
- b) Where the court granting bail overlooks the influential position of the accused in comparison to the victim of abuse or the witnesses especially when there is prima facie misuse of position and power over the victim.
- c) Where the past criminal record and conduct of the accused is completely ignored while granting bail.



- d) Where bail has been granted on untenable grounds.
- e) Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.
- f) Where the grant of bail was not appropriate in the first place given the very serious nature of the charges against the accused which disentitles him for bail and thus cannot be justified.
- g) When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case."

10. In **Ajwar v. Waseem: (2024) 10 SCC 768**, the Hon'ble Supreme Court held as under:

"Considerations for setting aside bail orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined and detailed reasons relating to the merits of the case that may cause prejudice to the accused, ought to be avoided. Suffice it is to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

29. In *Jaajeet Singh*, a three-Judge Bench of this Court, has observed that the power to grant bail under Section 439 CrPC is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not un-fettered. The order passed must reflect due application of judicial mind following well-established principles of law. In ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate court would be well within its power to set aside and cancel the bail. (Also refer : *Puran v. Rambilas; Narendra K. Amin v. State of Gujarat.*)"

11. Thus, the above decisions make it clear that interference is warranted



only where the order granting bail suffers from perversity, is based on irrelevant considerations, overlooks material facts, or where the accused has misused the liberty granted to him, violated bail conditions, tampered with evidence, or attempted to influence witnesses.

12. Having carefully perused the record of the present case, this Court finds that none of the circumstances warranting cancellation of bail are made out. Except for the grievance relating to non-recovery of the alleged cheated amount, no material has been placed on record to show that the accused has misused the concession of anticipatory bail or violated any of the conditions imposed upon him. The accused was granted anticipatory bail in the year 2023, and there are no allegations of non-cooperation with the investigation or of any violation of bail conditions.

13. Considering the overall facts and circumstances of the case, this Court is of the view that no ground is made out for cancellation of anticipatory bail or for setting aside the order dated 18.09.2023 passed by the learned Sessions Court. The petition is, accordingly, dismissed.

14. It is, however, reiterated that the accused shall continue to cooperate with the investigation, as and when required, in accordance with law.

15. Further, the concerned Investigating Officer is directed to file the chargesheet in the present case, within a period of one month from date.

16. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

JANUARY 20, 2026/ns
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