



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

CRM-M-29230-2024

Reserved on: 17th March, 2025

Pronounced on: 26th March, 2025

Kayum Khan

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

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

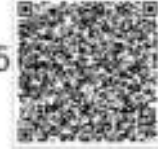
Ms. Sheenu Sura, Deputy Advocate General, Haryana.

Mr. Ashish Grewal, Advocate for respondent No.2.

MANISHA BATRA, J :-

The instant petition has been filed by the petitioner under Section 439(2) of Code of Criminal Procedure making prayer for setting aside the order dated 20.05.2024 passed by the Court of learned Sessions Judge, Yamuna Nagar in case arising out of FIR No. 132 dated 08.05.2024 registered under Sections 323, 34 and 506 of IPC (Sections 325 and 326 added later on) at Police Station Sadar Sadhaura, District Yamuna Nagar, whereby respondent No.2 was ordered to be released on regular bail.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the allegations that the on 08.05.2024, accused Sultan, Kama, Teja along with another youth had opened an attack upon the complainant-petitioner, when



he was going towards his poultry farm on his motor bike. He had raised clamour, which attracted other persons on seeing whom, the assailants had fled after extending threats to kill him. He also alleged that accused Sultan was carrying a pistol. After registration of FIR, investigation proceedings were initiated. Apprehending his arrest, the respondent No.2 moved an application for grant of pre-arrest bail before the learned Sessions Judge, Yamuna Nagar, which was allowed vide order dated 20.05.2024. The relevant portion of this order is reproduced as under:-

“6. Vide order dated 16.05.2024 of this Court, petitioner was directed to join investigation. As per report submitted, he has cooperated in investigation of the case, got effected recovery of wooden danda and has also demarcated the spot of occurrence. His person is no longer required for further investigation. As per medico legal report of injured, all the injuries suffered were caused by blunt weapon. Whether or not offence under Section 326 IPC would be made out in the facts of the case would be moot point during trial.

7. In these circumstances, the order dated 16.05.2024 is made absolute subject to following conditions:-

(i) that petitioner shall make himself available for interrogation by a police officer as and when required;

(ii) that petitioner shall not, directly or indirectly, make an inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;



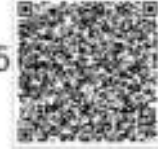
(iii) that petitioner shall not leave India without the previous permission of the Court.

As provided under Rule 15(iii), Chapter 10 of Punjab and Haryana High Court Rules and Orders, Volume-III, a copy of this order be supplied forthwith to the petitioner through counsel and a copy be also sent to the SHO, Police Station Sadhaura, for compliance. File be consigned to records.”

3. The present petitioner is aggrieved by this order and has made prayer for setting aside the same.

4. It is argued by learned counsel for the petitioner that while passing the impugned order, the learned Sessions Judge ignored the fact that the offences under Sections 325 and 326 of IPC had been added during course of investigation. Respondent No.2 along with the co-accused had struck blows with iron rod on the person of the petitioner and had caused as many as six injuries including grievous injuries on his person. Keeping in view the nature of the attribution made to him, respondent No.2 did not deserve to be extended benefit of pre-arrest bail but this fact was not taken into consideration by learned Sessions Court. Therefore, it is argued that impugned order be set aside, petition be accepted and the benefit of anticipatory bail as granted to the petitioner, be withdrawn.

5. Respondent No.1 has filed reply. Learned Deputy Advocate General, Haryana has affirmed the fact that respondent No.2 had been booked for commission of offences punishable under Sections 323, 325 and 326 of IPC on account of causing simple as well as grievous injuries to the petitioner. It is further submitted that no information regarding violation of

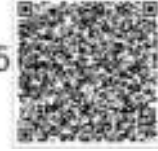


any term and condition of bail as granted to respondent No.2 has been given by the petitioner and it is, therefore, urged that the petition does not deserve to be allowed.

6. Reply has been filed by the respondent No.2. It is submitted therein and learned counsel has argued that there are general allegations against respondent No.2. No specific injury had been attributed to him. Learned Sessions Judge had passed a well reasoned order. The terms of grant of bail have not been violated at all by respondent No.2. No ground for allowing the petition is made out. It is, hence, urged that the same is liable to be dismissed.

7. Rival submissions of the parties have been heard at considerable length.

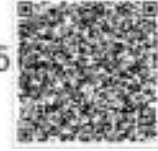
8. At the outset, this Court considers it proper to mention that the well established principles governing the grant of bail are that the Court should consider the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation, or tampering with evidence and likelihood of fleeing justice. Simultaneously, the principle governing the cancellation of bail is that such cancellation requires cogent and overwhelming circumstances and the same can be revoked, if the order granting bail has ignored relevant material available on record. The Hon'ble Apex Court in an authoritative pronouncement cited as *State through Delhi Administration v. Sanjay Gandhi, AIR 1978 Supreme Court 961*, had observed the cancellation of bail necessarily involves review of a decision already made and could by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to



allow the accused to retain his freedom during the trial. It is also well settled that the cancellation of bail is altogether different from an order of rejection of bail. In *Dolatram v. State of Haryana, (1995) 1 SCC 349*, the Hon'ble Supreme Court had observed that cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail, already granted, some of which are interference or attempt to interfere with the due course of administration of justice or evasion of attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. It was held that the satisfaction of the Court, on the basis of material placed on the record or possibility of the accused absconding is yet another reason justifying the cancellation of bail. It was further observed that bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.

9. Reliance can also be placed upon *Myakala Dharmarajam v. The State of Telangana, (2020) 2 SCC 743* wherein the Apex Court has made the following observations:-

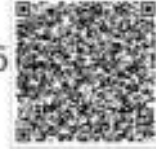
“It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in cancelling the bail.”



10. In the judgment *Imran v. Mr. Mohammed Bhava and another, 2022 SCC Online, 496*, the Hon'ble Supreme Court observed that bail can always be revoked if the relevant material on record, gravity of the offence or its societal impact, have not been considered by the Lower Court. Where bail is granted in a mechanical manner, the order granting bail is liable to be set aside. Similar proposition of law had been laid down in *Dataram Singh v. State of Uttar Pradesh, (2018) 3 SCC 22* and *Central Bureau of Investigation, Hyderabad v. Subramani Gopalakrishnan, (2011) 5 SCC 296*.

11. The proposition of law as laid down in the above discussed cases is that the discretion to cancel bail is to be exercised by the Court only if the order qua grant of bail smacks of arbitrariness, capriciousness or perversity or on being satisfied on the basis of record that the accused has actually misused such liberty. In the instant case, the respondent No.2 has been booked for commission of offences punishable under Sections 323, 325 and 326 of IPC, which are triable by Magistrate. The respondent No.2 had surrendered before the Court and was ordered to be released on 20.05.2024. It is not the case of the petitioner that he had misused any term and condition for grant of bail. After being released on bail, he is not shown to have committed any such act or conduct amounting to evasion or attempt to evade the due course of justice or abuse the concession of bail granted to him.

12. The learned trial Court had passed order for grant of bail keeping in view the nature of accusations, the severity of the punishment and the period of his incarceration. Neither it is pleaded by the petitioner in the petition nor it is made out from the record that there was any reasonable



apprehension of tampering with the evidence or extension of threat on the part of the respondent No.2 against the petitioner, if he is allowed to remain on bail. No cogent or overwhelming circumstance required for cancellation of bail is made out from the allegations as levelled by the petitioner. The grounds as taken in the petition seeking cancellation of bail do not enumerate the principles which have to be considered for revocation of such benefit. Having regard to all the above discussed facts and circumstances, the nature of the allegations and accusations as levelled against the respondent No.2, this Court is of the considered opinion that the petition does not deserve to be allowed. Accordingly, the same is dismissed.

13. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

26th March, 2025

Parveen Sharma

1. *Whether speaking/ reasoned* : *Yes / No*

2. *Whether reportable* : *Yes / No*