



CRM-M-52023-2025

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

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Date of decision: 16.09.2025

Ashish

...Petitioner

V/s

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Pardeep Sharma, Advocate for the petitioner
(Through V.C.).

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483(3) read with Section 528 of the BNSS, 2023, for setting-aside of anticipatory bail granted to respondent No.2 vide order dated 19.11.2024 (Annexure P-3) passed by Additional Sessions Judge, Rohtak in FIR No.676/2024 dated 31.10.2024 registered for offences punishable under Sections 109(1), 115(2), 126(2) of BNS, 2023 at Police Station Shivaji Colony, Rohtak.
2. The relevant portion of the order passed by Additional Sessions Judge, Rohtak, reads as under:

"7. After hearing the submissions of both the sides and the facts as appeared on record, it transpires that the allegations against the applicant- accused are that the altercation took place near the shop of Sudesh between the accused and brother of the complainant. As per the reply filed by the prosecution, the occurrence took place near the shop of father of the applicant-accused. In the altercation, Jatin, brother of complainant had received two punctured wounds on left shoulder and back region, alleged to have been inflicted by way of self defence by the applicant-accused during the altercation; admittedly, the applicant is in Govt. Service and he is ready to join the investigation and there is no apprehension of absconding as he is in Govt. Service and permanent resident of Inder Nagar Rohtak; role played by him; he is in Govt. Service



and considering the allegations levelled, place of alleged occurrence, apprehension alleged of his false implication cannot be ruled out, he has no criminal antecedents, and he is ready to join the investigation and culpability of the accused is to be decided during the course of trial, the offences alleged under section 115 (2), 126(2) B.N.S. an bailable nature except offence alleged under section 109 B.N.S. admittedly opinion regarding the injuries sustained is pending, considering the totality of the facts and circumstances of this case the anticipatory bail application of the applicant-accused is hereby allowed and it is ordered that in the event of arrest in this case, the applicant-accused shall be released on bail subject to furnishing surety bonds to the satisfaction of the Investigating Officer/Arresting Officer on the following conditions:-

- 1. He shall shall join investigation as and when called by the Investigating Officer and shall surrender their passport before the Investigating Officer and if he is not having passport then they shall file an affidavit in that regard;*
- 2. He shall not commit any offence similar to an offence of which he is an accused;*
- 3. He 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 them from disclosing such facts to the court or to any police officer;*
- 4. He shall not leave India without prior permission of the Court,*
- 5. He shall shall obey the conditions as mentioned in Sub-Section 3 of Section 480 B.N.S, 2023.*

8 In case the petitioner violates any terms and condition on which the anticipatory bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

9. The Investigating officer is directed to furnish status report of his joining the investigation to the concerned Illaqa Magistrate.”

3. Learned counsel for the petitioner has iterated that the respondent No.2 ought not to have been granted the concession of anticipatory bail by the Additional Sessions Court since there were serious allegations against the said respondent. Learned counsel has further iterated that the respondent No.2 has admitted the fact that he has caused injuries to



the petitioner under the plea of self defence, which can only be determined during the course of trial. Learned counsel has further submitted that the Court below has failed to consider that the respondent No.2 absconded after the incident, evaded his arrest and never submitted to medical examination thereby obstructing crucial evidence. According to learned counsel, the offence is heinous in nature, involving grievous injuries as shown in the MLR and prolonged hospitalization. Furthermore, the weapon of offence used in the commission of offence has not been recovered which fact has completely been ignored by the Court below while granting the concession of anticipatory bail to the respondent No.2. 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 anticipatory bail granted to respondent No.2 is entreated for.

4. I have heard learned counsel for the petitioner and have perused the record.

5. 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.

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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.”

6. The averments made in the petition as also the arguments raised by learned counsel for the petitioner, indubitably, show that petition has been filed for setting-aside of the anticipatory bail order granted to the respondent No.2 vide order dated 19.11.2024 (Annexure P-3) passed by Additional Sessions Judge, Rohtak. It is worthwhile to note herein that it is not the stand of the petitioner that the respondent No.2 has misused the concession of anticipatory bail granted by the Additional Sessions Court by threatening/intimidating the witness(s) or by trying to influence the investigation/trial etc. It is conceded position before this Court that the FIR was registered on 31.10.2024 and challan was presented before the competent Court of jurisdiction on 09.06.2025. It is trite law that the consideration(s) for grant of bail and for cancellation of bail are distinct. Cancellation of bail already granted requires demonstration of supervening

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circumstances such as misuse of liberty, tampering with evidence, intimidation of witnesses or deliberate evasion of the judicial process. Mere dissatisfaction with the reasoning of the Court 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 respondent No.2 has taken a plea of self defence before the Court below which according to the petitioner ought not to have been considered at the time of anticipatory bail. In the considered opinion of this Court, the Court below has not conclusively adjudicated upon the plea of self-defence but only noted that such a plea is available to the accused and requires adjudication at trial. Moreover, such a plea cannot, by itself, render the order granting the bail perverse. Another contention raised by learned counsel for the petitioner that the weapon of offence was not recovered at the time of grant of bail is also not sufficient for cancellation of bail. This issue cannot be delved into at the stage of consideration of a plea for grant of anticipatory bail in a meticulous manner. The order passed by the Additional Sessions 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 the Additional Sessions Court, 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.

7. 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



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earlier granted to respondent No.2 vide the impugned order. Therefore, the petition in hand deserves rejection.

Decision

8. As a sequel to the above discussion, the present petition filed under Section 483(3) read with Section 528 of the BNSS, 2023, seeking cancellation of anticipatory bail order dated 19.11.2024 (Annexure P-3) passed by learned Additional Sessions Judge, Rohtak is dismissed.

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

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

(SUMEET GOEL)
JUDGE

September 16, 2025

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No