



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

**CRM-M-17511-2025
Date of Decision:22.04.2025**

Daya Singh ...Petitioner

vs.

State of Punjab ...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present : Ms. Puja Chopra, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

Mr. Sanjiv Gupta, Advocate
for the complainant.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the second petition under Section 482 of B.N.S.S with a prayer to grant anticipatory bail to him in a case FIR No. 229, dated 31.08.2023, under Sections 408,420,465,468,471 of IPC and Sections 467 and 419 of IPC added later on, registered at Police Station Patran, District Patiala (Annexure P-1).

2. Learned counsel for the petitioner contends that there was a financial dispute between the parties and the complainant managed to get the FIR registered against the present petitioner. She further contends that during the process of investigation, the petitioner was taken into custody by the police on 24.07.2024. She further contends that since the police had failed to present the challan within the statutory period, the petitioner had filed an application under Section 483 of B.N.S and the said petition was allowed. The petitioner

was granted the concession of regular bail vide order dated 23.09.2024 (Annexure P-5) passed by the Court of Judicial Magistrate Ist Class, Samana. After the grant of regular bail, the prosecution moved an application for cancellation of regular bail granted to the petitioner by alleging that the offences under Sections 419 and 467 of IPC were added later on and the period of default bail stood extended to 90 days, instead of 60 days. Consequently, the application for cancellation of regular bail was wrongly allowed by the Court of Judicial Magistrate, Samana on 03.10.2024 (Annexure P-6). She further contends that the Magistrate could not have review her own order and the power of cancellation of regular bail has been wrongly exercised by the Court of Judicial Magistrate Ist Class, Samana. She further contends that the petitioner was on bail in pursuance of the order dated 23.09.2024 passed by the Court of Judicial Magistrate Ist Class, Samana and was never misused the concession of bail. She further contends the custodial interrogation of the petitioner may not be required for the purpose of investigation.

3. On the other hand learned State counsel assisted by learned counsel for the complainant have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner had concealed the fact that the offences under Sections 419 and 467 IPC were added in the present case. However, learned counsel could not dispute the fact that the said fact was not brought to the notice of Court, while passing the order dated 23.09.2024 (Annexure P-5).

4. I have heard the learned counsel for the parties and perused the record carefully in the present case.

5. As per the admitted case of the parties, the petitioner was ordered

to be arrested in the present case on 24.07.2024 and due to non-presentation of the challan, the petitioner had moved an application for grant of default bail, which was allowed on 23.09.2024. Once an order of bail was passed by the Judicial Magistrate, the Court of Judicial Magistrate had no powers to recall the said order. Moreover, as per the provisions of Section 439 (2) Cr.P.C only the Sessions Court or this Court had the powers to cancel the concession of bail, which had been allowed to the petitioner vide order dated 23.09.2024 (Annexure P-5) passed by the Court of Judicial Magistrate Ist Class, Samana. Thus, the order dated 03.10.2024 (Annexure P-6) passed by the Court of Judicial Magistrate Ist Class, Samana, whereby she had reviewed her own order is illegal. Still further, the petitioner was granted the concession of bail on 23.09.2024 and has never misused the concession of bail.

6. Thus, without commenting any further, the present petition is allowed and the petitioner is granted concession of anticipatory bail, subject to the conditions as provided under Sections 482 (2) of B.N.S.S. It will be open for the Investigating Officer to call the petitioner to join the investigation, if so required, by issuing a written notice in this regard and he shall abide by the conditions mentioned in Section 482 (2) of B.N.S.S.

22.04.2025

hitesh

(N.S.SHEKHAWAT)

JUDGE

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