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

**CRM-M-14625-2025 (O&M)
Date of decision: 01.04.2025**

Dharam Singh

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Kamal Chaudhary, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 482(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') read with Section 528 of BNSS for cancellation of anticipatory bail granted to respondent No.2 by learned Additional Sessions Judge, Faridabad vide order dated 17.02.2025 (Annexure P-4), in FIR No.12 dated 24.01.2025 under Sections 406, 420 & 506 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station BPTP, Faridabad.

2. Learned counsel for the petitioner, *inter alia*, contends that

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respondent No.2 introduced the petitioner to proprietor of a real estate firm and on the basis of his inducement, the petitioner paid Rs.25.00 lakhs. He assured the petitioner that remaining amount will be invested in another plot to be purchased in 50% partnership in the name of both the petitioner and respondent No.2. He also promised that till the possession is given by the company, the amount invested by the petitioner would be doubled. On the false assurance made by respondent No.2, the petitioner transferred Rs.25.00 lakhs from his bank account on 17.10.2022 through RTGS. Thereafter, when respondent No.2 filed an application for grant of anticipatory bail before learned Additional Sessions Judge, Faridabad, the investigating agency filed the reply, wherein it has been specifically mentioned that respondent No.2 has although joined the investigation, however, he did not cooperate. The reason for non-cooperation is given that the amount in question is yet to be recovered. As such, learned Additional Sessions Judge, Faridabad fell into grave error by granting anticipatory bail to respondent No.2 vide impugned order dated 17.02.2025 (Annexure P-4) and the findings recorded therein are contrary to the specific stand taken by the Investigating Officer. As such, the impugned order (Annexure P-4) is liable to be set aside and the anticipatory bail granted to respondent No.2 deserves to be cancelled.

3. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance.

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4. In the present case, respondent No.2 was granted *ad interim* anticipatory bail vide order dated 04.02.2025 by learned Additional Sessions Judge, Faridabad. The Investigating Officer though admitted that respondent No.2 has joined the investigation, however, it is submitted that he has not cooperated in the investigation and his custodial interrogation is required to recover the amount of Rs.25.00 lakhs received from the petitioner. The aforesaid order dated 04.02.2025, granting *ad interim* anticipatory bail, was made absolute vide impugned order dated 17.02.2025 (Annexure P-4), by making the following observations: -

*“5. In view of the above facts, this Court is of the view that dispute between the parties is of civil nature but has been given the colour of criminal nature. The offences alleged against the applicant are triable by Magistrate and punishable with imprisonment upto seven years and the veracity of the allegations is required to be seen at the time of trial. The complainant is at liberty to initiate civil proceedings to recover the amount back. In this regard, this Court relies upon the case law titled **Lalit Chaturvedi Vs. State of UP (supra)** in which the Hon’ble Supreme Court has held that :*

“.. The police is to investigate the allegations which disclosed a criminal act and Police do not have the power and authority to recover money or act as a civil court for recovery of money.”

5. Further, learned counsel for the petitioner has not been able to indicate any reasons necessitating cancellation of anticipatory bail granted to respondent No.2. Nowhere has it been indicated that the petitioner or the



sanctity of the trial will be adversely affected, if he continues to enjoy the concession of bail. The scope of interference by the Courts qua cancellation of bail is rather limited and adjudication upon the alleged facts, does not fall within its purview.

6. The parameters for denying bail and cancelling the same are quite varied. Denial of bail is a matter of discretion and can be decided upon without inspecting the details of the matter. If the Court is of the opinion that the accused is likely to misuse the liberty granted to him, it can deny bail simply on the basis of gravity of the offence. However, cancellation would amount to curtailment of the liberty already granted to an undertrial accused, which cannot be embarked upon in a cursory fashion. Only if a grave error is highlighted in the order granted bail or it is evident that the accused is misusing the concession, can the Court consider cancellation.

7. The scope and power of the judicial review of an order granting bail has been illustrated by the Hon'ble Supreme Court in ***Dolat Ram and others Vs. State of Haryana, (1995) 1 SCC 349***, which is as follows:-

*“(i) interference or attempt to interfere with the due course of administration of justice;
(ii) evasion or attempt to evade the due course of justice;
(iii) abuse of the concession granted to the accused in any manner;
(iv) possibility of the accused absconding;
(v) likelihood of/actual misuse of bail;
(vi) likelihood of the accused tampering with the evidence or threatening witnesses.”*



8. A three Judge Bench of the Hon'ble Supreme Court in ***Deepak Yadav Vs. State of Uttar Pradesh and another, (2022) 8 SCC 559***, speaking through Justice Krishna Murari, observed as follows:

“33. 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:

33.1. Where the Court granting bail takes into account irrelevant material of substantial nature and not trivial nature while ignoring relevant material on record.

33.2. 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.

33.3. Where the past criminal record and conduct of the accused is completely ignored while granting bail.

33.4. Where bail has been granted on untenable grounds.

33.5. Where serious discrepancies are found in the order granting bail thereby causing prejudice to justice.

33.6. 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.

33.7. When the order granting bail is apparently whimsical, capricious and perverse in the facts of the given case.”

9. In view of the aforementioned judgments rendered by the Hon'ble Supreme Court, this Court is of the considered view that cancellation of anticipatory bail granted to respondent No.2 would not meet the objective standard of reason and justice. Learned counsel for the petitioner has been



unable to indicate any perversity in the impugned order dated 17.02.2025 (Annexure P-4) or demonstrate any conduct on the part of respondent No.2, that would warrant interference by this Court.

10. Accordingly, the present petition is dismissed. The impugned order dated 17.02.2025 (Annexure P-4) passed by learned Additional Sessions Judge, Faridabad is hereby upheld.

11. All the pending miscellaneous application(s), if any, shall stand disposed of.

01.04.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No