

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

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**CRM-M-14979-2023 (O&M)**

**Date of Decision: 19.03.2025**

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Reena

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL**

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Present: Mr. Sarvesh Malik, Advocate for the petitioner  
Mr. Chetan Sharma, DAG Haryana  
Mr. Pradeep Duhan, Advocate for respondents No.2,3&5  
Mr. Vijay Deep Rathee, Advocate for respondent No.4

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**Sandeep Moudgil, J.**

(1). This order shall dispose of CRM-M-14979-2023 and CRM-M-15253-2023 as issues are interrelated. For the sake of order, CRM-M-14979-2023 is treated as the lead case.

(2). By way of instant petition jurisdiction of this Court has been sought to be invoked under Section 439(2) Cr.P.C. read with Section 482 CrPC for cancellation of regular bail granted to respondent No.2 to 5 vide order dated 18.10.2022 passed by Sessions Judge, Rohtak (Annexur P2) in case FIR No.567 dated 03.10.2022 under Sections 420/467/468/471/120-B IPC, registered at Police Station Shivaji Colony, Rohtak (Annexure P1).

(3). Learned counsel for the petitioner submits that the petitioner had lodged a complaint alleging that the respondents No.2 to 5 along with co-accused persons had conspired and prepared a false and fabricated partnership deed dated 21.07.2019 and sold 25% share in the firm to accused No.3 – Vipin and without her permission and prior knowledge, respondents No.2 to 5 took loan from APAC Financial Services P.Ltd. Mumbai and misused the funds.

(4). Mr. Sarvesh Malik, learned counsel for the petitioner argued that respondents No.2 to 5 made wrong statement before the trial court by stating

that they had not taken any loan in the name of the firm and the trial court wrongly relied upon the said averment inasmuch as the firm has obtained loan amounting to Rs.1508531/- from APAC Financial Services P.ltd. as is evident from Annexure P5 which shows that the name of the petitioner has been mentioned as a borrower and even her fake signatures has been made. He then submits that the above said fact is discernible from the notice (Annexure P6) issued by the Court of Metropolitan Magistrate 7<sup>th</sup> Court, Dadar, Mumbai on account of proceedings initiated due to non-payment of instalments by respondents No.2 to 5 towards the loan taken in the name of the petitioner.

(5). As regards the plea of cancellation of bail granted to the respondents No.2 to 5, it is urged that the said accused persons have not been cooperating with the police and have been avoiding the investigation under the garb of bail order due to which the investigation is not progressing in the manner it ought to be.

(6). Initially, on 13.12.2013, reply was filed by Sandeep Kumar, HPS, DSP, Meham notarized on 21.11.2023 wherein it was averred that pursuant to grant of concession of anticipatory bail to the respondents No.2 to 5, the said accused persons had joined the investigation and has been questioned by the IO and as and when the loan documents will be received from the APAC Financial Services P.ltd., then they will be again called to join the investigation. It was also averred that no complaint has ever been received by Rohtak Police about the violation of the terms and conditions of the bail order by the said respondents.

(7). As is evident from the order passed by this Court on 07.05.2024, there was a request made by the State counsel seeking permission to withdraw

the replies filed by Sandeep Kumar in both the cases i.e. CRM-M-14979-2023 and CRM-M-15253-2023. However, this Court directed the State to move an appropriate application giving the detailed reasons as to how the replies were filed on 13.12.2023 and what is compelling the State to retreat its stance vide replies so filed.

(8). In the meanwhile, respondents No.2 to 5 also filed CRM-43988-2024 praying for filing separate reply on behalf of respondent No.4 though at one point of time on 13.12.2023, counsel for respondents No.2 to 5 had made a statement that the said respondents do not wish to file reply. Be that as it may, it has been averred by the accused/respondents that the petitioner has sought to give a civil dispute a criminal cloak and at best, the dispute relates to mere breach of duties under the Indian Partnership Act, 1932.

(9). He submits that respondent No.4 is cooperating with the police in terms of the bail order and that nothing is left to be recovered from him as he has already supplied whatever has been sought by the police. It is further averred that the State, under the pressure and influence of the husband of the petitioner who is a serving DSP, has decided to retract from the reply so filed on 13.12.2023 and no words have been minced in response to the explanation sought by this Court vide order dated 07.05.2024 for withdrawing their reply.

(10). Heard learned counsel for the parties.

(11). Though, there exists no straight jacket formula to assess the application for grant or rejection of bail but determination of whether a case is fit for grant of bail or not involves balancing of numerous factors among which nature of offence, severity of punishment and prima facie view of the involvement of accused are of utmost importance. In the instant application the

grounds taken by the petitioner are solely based on factual aspects touching the merits of the case, which have not been considered by the trial Court while granting bail to respondent No.2 to 5 vide impugned order dated 18.10.22 (Annexure P-2). I am of the firm view that very cogent and overwhelming circumstances or ground are required to cancel the bail already granted. Ordinarily, unless a strong case based on any supervening event is made out, an order granting bail cannot be interfered with under Section 439(2) CrPC. While considering the petition for cancellation of bail, a Court shall bear in mind that:-

- (a) the accused misuses his liberty by indulging in similar criminal activity,
- (b) interferes with the course of investigation,
- (c) attempts to tamper with evidence or witnesses,
- (d) threatens witnesses or indulges in similar activities which would hamper smooth investigation,
- (e) there is likelihood of his fleeing to another country,
- (f) attempts to make himself scarce by going underground or becoming unavailable to the Investigating Agency and
- (g) attempts to place himself beyond the reach of his surety, etc.

(12). It is thus clear before this Court that when a person to whom bail has been granted either tries to interfere with the course of justice or attempts to tamper with evidence or witnesses or threatens witnesses or indulges in similar activities which would hamper smooth investigation or trial, bail granted can be cancelled.

(13). The Supreme Court of India in *Bhuribai vs. State of Madhya Pradesh 2022 LiveLaw (SC) 956* elaborating the powers of the Court for cancellation of bail held that it cannot be approached as in case of any disciplinary proceedings against an accused and such power of cancellation of bail should be exercised with extreme care and circumspection and such cancellation cannot be ordered merely for any perceived indiscipline on part of accused before granting bail.

(14). In the case in hand, after examining the arguments and the order of granting regular bail (Annexure P-2), it cannot be inferred from the reasons seeking cancellation of bail as put forth by the learned counsel for the petitioner that respondents No.2 to 5 had misused the liberty or had violated any of the conditions as envisaged under Section 439 Cr.P.C.

(15). The ground taken by the petitioner that the State in its latest reply has come up with a stand that earlier at the time of filing the earlier reply, the investigation of the case was pending and it has been found that the accused/respondents No.2 to 5 had obtained the loan from the APFC Financial Services P.Ltd. and the original loan papers have been received, therefore, for the recovery of the original partnership deed dated 21.07.2019 and to know the names of other persons so involved as also to verify the details of other banks/financial institutions from which the respondents No.2 to 5 have had obtained loan on the basis of the said forged partnership deed.

(16). Bail, while a right, is not absolute. If the accused violates any of the conditions on which bail was granted, or engages in activities that hamper investigation, the bail can be revoked. If it is proved beyond reasonable doubt that the accused, who was granted bail, has misused it by interfering with the

course of justice in any manner, such as the accused's actions in interfering with the administration of justice, attempting to tamper with witnesses, and jeopardising a fair trial, it would be deemed sufficient grounds for the cancellation of bail. However, the complainant could have explicitly advanced this plea by placing cogent and credible evidence on record before this Court, eschewing vague and frivolous assertions. So much so, there is no substantiation by the State, in its reply, to even remotely corroborate that the accused persons/respondents are avoiding investigation or are not cooperating the investigating agency. Had it been so, it would be the State who had approached this Court, at the first instance, highlighting the conduct of the respondents No.2 to 5 in hampering and stalling the process of investigation post grant of bail by the trial court. That being not the state of affairs at this moment, the petitioner/complainant cannot be said to aggrieve in any manner whatsoever.

(17). In view of the above discussion, this petition is devoid of merit and is accordingly dismissed.

19.03.2025

*V.Vishal*

**(Sandeep Moudgil)**  
**Judge**

1. *Whether speaking/reasoned?*

*Yes/No*

2. *Whether reportable?*

*Yes/No*