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

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Date of decision: 08.10.2025

State of Haryana

....Petitioner

V/s

Rohit

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Gurmeet Singh, AAG Haryana.

Mr. Devender Kumar, Advocate for the respondent.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 439(2) of Cr.P.C., seeking cancellation of the anticipatory bail granted to respondent vide order dated 08.09.2021 (Annexure P-2) passed by this Court in CRM-M-36973-2021 in FIR No.38 dated 13.02.2021 registered for offences punishable under Sections 148, 149, 307, 506 of IPC and Section 25 of the Arms Act, Chandhuth, Police Palwal Station District Palwal.

2. The relevant portion of the order passed by this Court, reads as under:

“After hearing the counsel for the parties, considering the fact that the petitioner, who is a young man aged about 22 years, is a first offender, I deem it appropriate to release the petitioner on anticipatory bail.

Accordingly, the present petition is allowed and the petitioner is directed to appear before the Investigating Officer within a period of 10 days to join investigation and he shall be released on interim bail on furnishing bail/surety bonds subject to the following conditions:-

1. He shall make himself available for interrogation by a police officer as and when required;



2. 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 him from disclosing such facts to the Court or to any police officer; and

3. He shall not leave India without previous permission of the Court.

It will be open for the Investigating Officer to issue an advance notice in writing to the petitioner to join the investigation, if so required.”

3. Learned counsel appearing for the petitioner-State has iterated that the respondent has misled this Court at the time of seeking anticipatory bail by giving incorrect facts. Learned counsel has further iterated that the investigating officer has visited the hospital on the same day of the incident to record the statement of the victim but the doctor declared him unfit. Later, the name of the respondent surfaced in the statements of the eyewitnesses on 13.02.2021 and in the statement of the victim Braham on 18.02.2021. According to learned State counsel, the respondent has deliberately misled this Court while seeking anticipatory bail by falsely claiming that he was named only after six days of the occurrence. Furthermore, the respondent has threatened the complainant to withdraw the cases and not to pursue the present FIR. It has been further contended that the respondent has failed to cooperate with the investigating agency and did not facilitate the recovery of the weapon (desi katta). Thus, it has been argued that the concession of anticipatory bail extended to the respondent vide impugned order deserves to be cancelled.

4. Learned counsel appearing for the respondent has iterated that the allegations made by the State are false, baseless and motivated. Learned counsel has further iterated that the respondent has not misled this



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Court at any stage and has strictly complied with all the conditions imposed while granting anticipatory bail on 08.09.2021. It is further contended that the respondent has been falsely implicated in the case due to personal enmity as his name was not mentioned in the initial version of the incident and was only introduced later which is an afterthought. According to learned counsel, the respondent has fully cooperated with the investigating agency and bail once granted cannot be cancelled unless there are cogent reasons. On the strength of these submissions, the dismissal of the instant petition is entreated for.

5. I have heard the learned counsel for the rival parties and have gone through the available records of the case.

6. It would be apposite to refer herein to a judgment passed by this Court titled as ***Dinesh Madan vs. State of Haryana and another*** passed in ***CRM-M-9029-2023***, 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.*

xxxx	xxxx	xxxx	xxxx
xxxx	xxxx	xxxx	xxxx

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.”*

7. Indubitably, by way of the present petition, the petitioner-State seeks to raise grounds for cancellation of anticipatory bail earlier granted to respondent vide order dated 08.09.2021 passed by this Court. The principal contention advanced on behalf of the petitioner is that the grant of anticipatory bail to the respondent was primarily premised on the observation that he was initially not named in the FIR and his name was subsequently surfaced, are matters that can only be determined during the course of trial after some evidence is led by the respective parties. Furthermore, it has also been argued that the respondent has misled this Court at the time of grant of bail and subsequently failed to cooperate with the investigation. However, the record does not disclose any specific instance of non-cooperation or violation of any bail conditions. The investigating agency has not placed on record any report indicating that the respondent has willfully avoided investigation or refused to comply with the directions. The alleged non-recovery of the weapon (desi katta), by itself, does not establish non-cooperation, particularly in the absence of any proof



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that the respondent is in possession of the alleged weapon. As regard the allegation of threats to the complainant, the same remains unsupported by any independent evidence. In the considered opinion of this Court vague allegations without corroboration cannot form the basis of cancellation of bail.

8. Furthermore, there is no material to indicate that the respondent has tampered with evidence, influenced witnesses or committed any offence after the grant of anticipatory bail. The anticipatory bail granted by this Court reflects due consideration of the relevant factual *milieu* of the case. Nothing tangible has been brought on record to show that any complaint/grievance was made/raised before the learned trial Court, during the course of trial so far. The absence of any such complaint further casts serious doubts on the case put forth by the petitioner-State seeking cancellation of bail. Accordingly, it is unequivocal that the unsubstantiated allegations without supporting evidence cannot be said to be a good ground for cancelling the anticipatory bail earlier granted to respondent by this Court.

9. Keeping in view the entirety of the facts and circumstances of the case in hand, no ground is made out to cancel the anticipatory bail earlier granted to the respondent vide the impugned order. Therefore, the petition in hand deserves rejection. Accordingly, the present petition seeking cancellation of anticipatory bail granted vide order dated 08.09.2021 (Annexure P-2), is dismissed.



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

11. Pending application(s), if any, shall also stand disposed of.

(SUMEET GOEL)
JUDGE

October 08 2025

Ajay

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

