



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

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CRM-M-25655-2026

Manan Chugh

...Petitioner

V/s

State of Haryana and another

....Respondents

Date of decision: 15.09.2026**Date of Uploading : 15.09.2026****CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Sanjay Kaushal, Senior Advocate with
Mr. Arjun Kaushal, Advocate,
Ms. Devyani Kaushal, Advocate and
Mr. Abhimanyu Kaushal, Advocate for the petitioner.
Ms. Mahima Yashpal Singla, Senior DAG Haryana.
Mr. Gurfateh Singh Khosa, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483(3) read with Section 528 of BNSS, 2023 (erstwhile Section 439(2) and 482 of the Cr.P.C.) seeking setting-aside of order granting regular bail to respondent No.2 vide order dated 20.03.2026 (Annexure P-2) passed by Additional Sessions Judge, Gurugram in FIR No.231 dated 10.11.2025 registered for offences punishable under Sections 318(4), 3(5), 316(2) of BNS at Police Station Sector 53, Gurugram, Haryana.

2. The relevant portion of the order passed by Additional Sessions Judge, Gurugram, reads as under:

“ Accordingly, the present bail application stands allowed in the interest of justice and the applicant-accused is hereby admitted to regular bail subject to furnishing bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of learned Illaqua/Duty Magistrate. However, it will be open for the prosecution to apply for cancellation of bail to the applicant-accused, in case he is found involved in any other case or misusing the concession of bail, in any

manner. Copy of this order be sent to the concerned Jail Superintendent for intimation to the accused.”

3. Learned senior counsel for the petitioner has iterated that the impugned order passed by the Court below granting regular bail to respondent No.2 is illegal, perverse and liable to be set aside as the same has been passed without proper appreciation of the material collected during investigation. Learned senior counsel has further iterated that the allegations are not of a simple civil or contractual dispute but discloses a deliberate act of cheating, forgery and dishonest inducement from the very inception of the transaction. According to learned senior counsel, respondent No.2, along with her father and other co-accused persons, has been operating a travel business and the petitioner has paid an amount of ₹8,90,000/- towards the proposed travel arrangements. It has been further contended that when the date of travel approached, the petitioner discovered that the air tickets and hotel reservations were forged, cancelled or otherwise invalid which compelled him to make fresh arrangements at a much higher rate which caused him substantial loss. Learned senior counsel has emphasized that the Court below has committed a serious error by treating the matter as one within the realm of breach of an agreement. It has been further contended that the observation of the Court below regarding a thin line between breach of agreement and cheating is contrary to the material available on record. Furthermore, the Court below has failed to consider the material and relevant circumstances while granting the concession of regular bail to respondent No.2. It has been further contended that the petitioner had appeared before the Court below and furnished the details of several FIRs and other material showing the alleged involvement of respondent No.2 in similar other transactions but the said material was neither properly taken on

record nor considered while passing the impugned order. Learned senior counsel has further submitted that despite repeated demands for refund of the amount in question, the respondent No.2 allegedly avoided the same and adopted evasive tactics. According to learned senior counsel, the respondent No.2 has links outside India and was, on an earlier occasion, she was intercepted at the Indira Gandhi International Airport while allegedly attempting to flee to Dubai which creates a genuine apprehension that she may either leave the country and/or may evade the process of law. It has been further contended that the circumstances of the case, when considered cumulatively, clearly reflect that respondent No.2 is at flight risk and her release on regular bail poses a serious apprehension of interference with the fair course of trial. It has been further argued that the multiplicity of FIR(s) of similar nature, the alleged organized manner in which the offences have been committed, the likelihood of repetition of similar offences, her alleged foreign connections and the apprehension of her influencing witnesses or tampering with the prosecution evidence are relevant circumstances which ought to have been duly considered by the Court below while granting the concession of regular bail to respondent No.2. On the strength of these submissions, it is prayed that the impugned order granting regular bail to respondent No.2 be set aside.

4. Learned State counsel has iterated that the regular bail has been granted to respondent No.2 by the Court below after considering the fact that the culpability of the accused has to be established after evidence is led by the prosecution which would take considerable time. Learned State counsel has further iterated that the respondent No.2 has failed to provide travel services to the complainant and his wife. Furthermore, respondent

No.2 had been repeatedly involved in similar offences which reflects a consistent pattern of conduct and demonstrates a clear criminal propensity.

5. Learned counsel appearing on behalf of respondent No.2 has iterated that the present petition seeking setting-aside of regular bail is misconceived and is nothing but an attempt to seek review of a well-reasoned order passed by the Court below, which is impermissible in law. Learned counsel has further iterated that the power under Section 483(3) read with Section 528 of BNSS, 2023 is to be exercised only in cases where the accused has misused the concession of bail, interfered with the course of justice or violated the conditions of bail, none of which are alleged or established in the present case. It has been further contended that there is no material on record to show that the respondent No.2 has attempted to influence any witness, tamper with evidence or in any manner obstructed the investigation. Learned counsel has emphasized that the Court below, after considering the material on record, has rightly granted the concession of regular bail to respondent No.2 and the said order does not suffer from any illegality or perversity warranting interference by this Court. Moreover, the petitioner has not placed on record any subsequent event or supervening circumstance after the grant of regular bail which would justify cancellation of bail.

6. I have heard learned counsel for the rival parties and have perused the record.

7. It would be apposite to refer herein to a judgment passed by this Court titled as ***Dinesh Madan vs. State of Haryana and another*** in ***CRM-M-9029-2023***, decided on 17.05.2024; relevant whereof reads as under:-

“12. The concept of “cancellation of bail” is statutorily manifested in terms of Section 439 (2) of 1973 Code. This concept was embodied in the earlier statute i.e. 1898 Code as well albeit with difference(s). The ratio decidendi of judgment in case of **Gurcharan Singh** (supra) makes it clear that, in the 1898 Code, the bail granted by the High Court could be cancelled only by it & bail granted by a Sessions Court could be cancelled by such Sessions Court only. However, Section 439(2) of 1973 Code has vested power to cancel bail which has been granted “under this chapter” upon both the High Court as also the Sessions Court. The words “under this Chapter” relates to Chapter XXXIII of Cr.P.C. of 1973 & hence the unequivocal result thereof is that the High Court as also the Sessions Court have requisite powers to cancel “any bail” granted by “any Court” by way of powers vested under this Chapter. In other words; the High Court is well empowered to cancel a bail granted by itself or by a Sessions Court or by the Court of a Magistrate while the Sessions Court is empowered to cancel a bail granted by High Court or by itself or by a Magistrate. However, a Sessions Court can cancel bail granted by High Court only on account of supervening/new circumstances or on account of misconduct of such accused or on account of violation of any condition(s) imposed by the High Court while granting bail. The Magistrate can, of course, cancel bail granted by him but he cannot cancel a bail granted by High Court or Sessions Court except when such accused has violated/contravened any condition(s) imposed upon by such High Court or Sessions Court while granting bail to such accused. This position, is indubitable, as a Magistrate has been vested with powers for cancellation of bail only in terms of Section 437(5) of 1973 Code whereas the High Court and Sessions Court have been vested with powers under Section 439 of Cr.P.C., of 1973 to cancel “any bail granted under Chapter XXXIII of 1973 Code”.

12.1 Section 439(2) of Cr.P.C., 1973 deals with “any person who has been released on bail under this Chapter” i.e. Chapter XXXIII of 1973 Code, which engirths in itself, Section 438 of the Code (provision envisaging anticipatory bail/pre-arrest bail) as well. Hence such power operates in realm of all kinds of bails, whether regular bail or anticipatory bail. Ergo, there is no conceptual difference between cancellation of regular bail and cancellation of anticipatory bail except that a Magistrate will not have statutory power to cancel an anticipatory bail granted by High Court or Sessions Court.

12.2. At this juncture, it would be profitable to consider an issue often springing up before Courts. Petition(s) labelled as plea(s) for “cancellation of bail” are filed in Court(s), more often than not, whether such applicant is actually seeking “cancellation of bail” on account of the accused misusing the grant of bail or on account of any supervening developments disentitling

*such accused to remain on bail OR where the plea raised is that, the bail ought not to have been granted at all vide the impugned order, in the factual conspectus of such case. The 1973 Code neither stipulates the words “cancellation of bail” nor “setting-aside of a bail order” but only stipulates the words “any person who has been released on bail be arrested and committed to custody”. There is no gainsaying that there is a foundational difference between “cancellation of bail” and “setting-aside of a bail order”; a difference which, by way of simile, can be said to be as stark as between chalk and cheese. The Hon’ble Supreme Court in cases of **Ranjit Singh** (supra) and **Neeru Yadav** (supra) has incontestably articulated that “cancellation of bail” is sought for on account of supervening circumstances/subsequent developments/misconduct of accused etc. whereas “setting-aside of a bail order” is sought for by laying challenge to the said bail order on ground of it being perverse or based on irrelevant material(s). The parameters for consideration of the two are, accordingly, different and contrastive.*

13. *The next aspect that craves attention is as to what are the factors relevant for considering of a plea for “cancellation of bail” or “setting-aside of a bail order.” At the very outset; it deserves to be noted that, it is too far well settled a principle to be ratiocinated upon, that consideration(s) for grant of bail vis.-a-vis. cancellation/setting-aside thereof are entirely different.*

14. *In a plea seeking “cancellation of bail”; such applicant ought to show, primarily, subsequent supervening circumstances such as accused having endeavored to influence/intimidate witness(s) or accused having violated bail condition(s) or accused having committed another offence(s) or accused having secured bail by misrepresenting/concealing material fact(s) or bail having been granted in ignorance/violation of statutory provisions and factors of akin nature. The Hon’ble Supreme Court in the case of **Himanshu Sharma** (supra) has delineated the nature and kind of such factors as have been stated by this Court hereinabove.*

14.1. *Further, the Hon’ble Supreme Court in the case of **Sanjay Gandhi** (supra) has enounced regarding the nature and degree of burden upon the applicant (seeking cancellation of bail). The plea of such an applicant has to be tested on the anvil of preponderance of probabilities & such an applicant is not required to prove, beyond reasonable doubt, the facts pleaded by him in support of such a plea.*

15. *In a plea seeking “setting-aside of a bail order”; the factors required to be considered are as to whether bail has been granted on relevant consideration(s); grounds required to be evaluated for grant of bail have been duly factored into the order granting bail and other factors of akin nature. The Hon’ble Supreme Court in the case of **Jagjit Singh** (supra) has*

held that the High Court or Sessions Court can set-aside an order granting bail passed by an inferior Court if such order is based on irrelevant considerations, order granting bail has resulted in miscarriage of justice etc. It goes without saying that the High Court or Sessions Court; while dealing a plea for setting-aside a bail order; sits in a jurisdiction, which is akin to appellate jurisdiction & hence it can look into the veracity and propriety of the order (granting bail) from all the perspectives. However, a Court while dealing with such a plea, ought not to substitute its own opinion with the one expressed in the impugned order.

16. *It would not be pragmatic to even attempt to lay-down exhaustive parameters in this regard as every case, especially a criminal case, is sui generis. Such a quixotic attempt ought to be avoided as no inexorable formulae can be laid down in this regard.*

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.

III. Plea seeking setting-aside of regular bail order.

(i) A plea seeking “setting-aside of a bail order” has to be essentially filed in the Court, superior to the one which has granted bail.

(ii) In case setting-aside of a bail order granted by the Magistrate’s Court is sought for, such plea ought to be ordinarily filed before the Sessions Court. 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.

(iii) For setting-aside a bail order passed by a Sessions Court; such plea, but of-course, will have to be filed before the High Court.”

8. The averments made in the petition as also the arguments raised by learned senior counsel for the petitioner, indubitably, show that petition has been filed seeking setting-aside of the order granting regular bail to the respondent No.2 vide order dated 20.03.2026 (Annexure P-2) passed by Additional Sessions Judge, Gurugram. In the present case, the petitioner has not brought on record any material to demonstrate that after the grant of regular bail, respondent No.2 has attempted to influence witnesses, tamper with evidence or violate any condition imposed by the Court. The apprehensions expressed by the petitioner are largely speculative and not supported by any cogent material. The scope of consideration before this Court, however, is limited. It is trite that the parameters governing setting-aside of bail are distinct from those governing grant of bail. Once bail has been granted, it cannot be cancelled in a routine manner unless it is shown that the accused has misused the concession of bail, attempted to tamper with evidence, influenced witnesses, evaded the process of law or that the order granting bail is perverse, illegal or based on wholly irrelevant considerations. A perusal of the impugned order reflects that the Court below has granted the concession of regular bail to respondent No.2 mainly on account of the fact that the culpability of the accused has to be established after evidence is led by the prosecution which would take considerable time, as also the progress of the trial. The challan has already been presented and no specific material has been placed before this Court to show that the respondent No.2 has misused the concession of regular bail after her release. There is no allegation that she has absconded, attempted to

influence witnesses, tampered with evidence or violated any condition of the bail order. The grounds raised by the petitioner primarily relate to the nature and gravity of the allegations and the merits of the case, which were available at the time of consideration of the bail application and cannot be re-agitated in proceedings for setting-aside of bail in the absence of any supervening circumstance(s). The apprehensions expressed by the petitioner are general in nature and are not supported by any specific instance of misconduct on the part of respondent No.2 after the grant of regular bail. In such circumstances, this Court does not find any cogent or overwhelming reason to cancel the regular bail granted to respondent No.2. Mere dissatisfaction with the reasoning of the Court below which has granted the bail or the seriousness of the offence, by itself, is not sufficient to recall/setting-aside of such an order. Learned senior counsel has laid much emphasis that the allegations against the respondent No.2 are serious, which according to the petitioner, ought not to have been considered by the Court below at the time of grant of regular bail. In the considered opinion of this Court, the petitioner has not brought any fresh or supervening material before this Court. A mere allegation of seriousness of offence without concrete material cannot justify the setting-aside of order granting bail.

The order passed by the Court below 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 Court below, 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.

9. Keeping in view the entirety of the facts and circumstances of the case in hand, no ground is made out to set-aside the regular bail granted to respondent No.2 vide the impugned order. Therefore, the petition in hand deserves rejection.

10. As a sequel to the above discussion, the present petition filed under Section 483(3) read with Section 528 of BNSS, 2023 (erstwhile Section 439(2) and 482 of the Cr.P.C.) seeking setting-aside of order granting regular bail to respondent No.2 vide order dated 20.03.2026 (Annexure P-2) passed by Additional Sessions Judge, Gurugram, is dismissed. However, considering the factual *milieu* of the case in hand, it is directed that respondent No.2 shall surrender her passport within 07 days from today with the concerned trial Court.

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

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

(SUMEET GOEL)
JUDGE

September 15, 2026

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No