



2025:PHHC:157266



CRM-M-60803-2025

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

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CRM-M-60803-2025

Date of decision: 13.11.2025

Date of Uploading: 13.11.2025

Mohd. Jakir

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ravi Ambawata, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

None for respondent No.2.

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483(2) read with Section 528 of the BNSS, 2023, seeking cancellation of regular bail granted to respondent No.2 vide order dated 22.09.2025 (Annexure P-4) passed by Additional Sessions Judge, Palwal in FIR No.72 dated 08.08.2025 registered for offences punishable under Sections 318(4), 338, 336(3) and 340(2) of BNS, 2023 at Police Station Utawar, District Palwal.

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

“10. Keeping in view the above reason and discussion, bail application is allowed and applicant (Nayyum) is admitted to bail on furnishing bail bonds/surety bonds to the satisfaction of learned Illaqa Magistrate/Duty magistrate concerned. Copy of this order be sent to learned Illaqa Magistrate/Duty Magistrate concerned. Copy of this order be sent to concerned Superintendent District Jail through email.



11. No expression of this order shall be construed to be an opinion upon the merits of the case. File be consigned to the record room after due compliance.”

3. Learned counsel for the petitioner has iterated that the Court below has erred in granting bail to the respondent No.2 despite the gravity and seriousness of the offence. Learned counsel has further iterated that the respondent No.2, in connivance with one Khushnuma, prepared a forged and fabricated Nikahnama by gorging the signatures of the petitioner and falsely showing his presence as a witness to a marriage of which he has no knowledge. According to learned counsel, after being released on regular bail vide impugned order, the respondent No.2 has been threatening and pressurizing the petitioner to compromise the matter. Learned counsel has further submitted that the Court below has failed to appreciate the gravity of the offence, the possibility of the accused interfering with the investigation and the potential threat to the life of the petitioner. Learned counsel has further submitted that the seriousness of the offence involving forgery of a legal document outweighs the factor of absence of previous criminal antecedents. It has been further argued that the impugned order has been passed in a mechanical manner without application of mind. Thus, keeping in view the gravity of offence, cancellation of the regular bail granted to respondent No.2 is entreated for.

4. Pursuant to order of the preceding date, learned State counsel has filed reply dated 07.11.2025 by way of affidavit of Mohinder Singh, HPS Deputy Superintendent of Police, Hathin, District Palwal has been filed by the State of Haryana; relevant whereof reads as under:-



“3. That after registration of the present FIR, the initial investigation of the case was conducted by SI Mahesh Kumar, during which the statements of the witnesses were recorded. Thereafter, the investigation of the case was taken over by Inspector/SHO Renudevi, Police Station Uttawar, District Palwal. During the course of investigation, sufficient evidence was found against accused Nayum (respondent No. 2) son of Israil, resident of Roopdaka, Police Station Uttawar, District Palwal, making him liable for arrest. Accordingly, on 20.08.2025, the accused Nayum (respondent no. 2) was arrested as per rules and his disclosure statement was recorded. As per the disclosure statement, it was necessary to locate the house of the Maulvi who had prepared the forged Nikahnama, situated at Jurheda (Kaman), Rajasthan. Therefore, the accused (respondent no. 2) was produced before the Ld. Court on 21.08.2025 and two days of police remand was obtained. During police custody, the accused (respondent no. 2) gave a second/supplementary disclosure statement and according to it, on 22.08.2025, he got the forged Nikahnama recovered from the rented house of Arif son of the accused's maternal aunt (Mosi), located at Badkali, District Nuh. The document was seized by the police through a formal recovery memo which was separately prepared. The accused also pointed out the place of occurrence, for which a site plan and recovery sketch was separately drawn. The accused (respondent no. 2) was then produced before the Ld. Court on 23.08.2025 and upon the Ld. Court's order for judicial custody, he was sent to District Jail Neemka, Faridabad.

4. That the Ld. Court of A.S.J., Palwal granted regular bail to the respondent no. 2 namely Nayum vide order dated 22.09.2025.

5. That in the present case, the arrest of accused Arif resident of Jamalgarh, District Nuh and his associate Maulvi (who prepared the forged Nikahnama) is still pending.

6. That the present case is pending before the Ld. Court of J.M.I.C., Hathin, District Palwal and the same is fixed for 12.01.2026 for appearance. Charge is yet to be framed in this case.

7. That in compliance of order dated 31.10.2025, the investigating agency served a notice to the respondent no. 2 and informed him about the pendency of the present petition before this Hon'ble High Court as well as about the next date of hearing i.e. 13.11.2025. The said notice has



been received by the respondent no. 2, the copy of notice is attached herewith as annexure R-1.”

Learned State counsel has raised submissions in tandem with the above-said reply.

Learned State counsel submits that respondent No.2 stands informed in terms of order dated 31.10.2025 passed by this Court. However, none has caused appearance on behalf of respondent No.2.

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

6. It would be apposite to refer herein to a judgment of this Court passed in **CRM-M-9029-2023**, titled as ***Dinesh Madan vs. State of Haryana and another***, 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. The averments made in the petition as also the arguments raised by learned counsel for the petitioner, indubitably, show that petition has been filed seeking cancellation of the regular bail order granted to the respondent No.2 vide order dated 22.09.2025 (Annexure P-3) passed by Additional Sessions Judge, Palwal. It is worthwhile to note herein that it is not the stand of the petitioner that the respondent No.2 has misused the concession of anticipatory bail granted by the Additional Sessions Court by threatening/intimidating the witness(s) or by trying to influence the investigation/trial etc. It is settled law that once bail has been granted by a competent Court, the same can be cancelled only when there is cogent material showing that the accused has misused the concession of bail, has tampered with evidence or there has been a subsequent supervening circumstance warranting such cancellation. Mere reiteration of allegations forming the basis of FIR or apprehension of misuse is not sufficient ground for cancellation of bail. It is conceded position before this Court that the FIR was registered on 08.08.2025 and same is under investigation. It is trite law that the consideration(s) for grant of bail and for cancellation of bail are



distinct. Cancellation of bail already granted requires demonstration of supervening circumstances such as misuse of liberty, tampering with evidence, intimidation of witnesses or deliberate evasion of the judicial process. Mere dissatisfaction with the reasoning of the Court which has granted the bail or the seriousness of the offence by itself, is not sufficient to recall such an order. In the present case, except for bail assertions regarding alleged threats, no specific or credible material has been placed on record to substantiate that respondent No.2 has misused the concession of bail or interfered with the investigation process. In the considered opinion of this Court, the Court below has conclusively considered the nature of allegations, period of custody and absence of criminal antecedents. There appears to be no perversity, illegality or material irregularity in the exercise of discretion warranting interference by this Court. The order passed by the Additional Sessions Court 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 Additional Sessions Court, 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.

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



Decision

9. As a sequel to the above discussion, the present petition filed under Section 483(2) read with Section 528 of the BNSS, 2023, seeking cancellation of regular bail order dated 22.09.2025 (Annexure P-4) passed by learned Additional Sessions Judge, Palwal is dismissed.

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 off.

(SUMEET GOEL)
JUDGE

November 13, 2025

Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No