

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.2234 of 2024.

Reserved on: 14.11.2025

Date of Decision: 10.12.2025.

Virbhader Singh

...Petitioner

Versus

State of H.P. and another

...Respondents

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : Mr. Rajat Kumar, Advocate.

For Respondent No.1/State : Mr. Jitender Sharma, Additional Advocate General.

For Respondent No.2 : Mr. Bimal Gupta, Senior Advocate, with Mr. Trigun Singh Negi, Advocate.

Rakesh Kainthla, Judge:

The petitioner has filed the present petition for cancellation of bail in FIR No. 7 of 2024, dated 12.1.2024, registered in Police Station Jhakri, District Shimla, HP, for the commission of offences punishable under Sections 420, 467 and 468 of the Indian Penal Code (IPC). It has been asserted that respondent No.2/accused approached the Court and obtained bail.

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

The Court imposed a condition that she would not contact the informant, threaten or browbeat him/her or use any pressure tactics in any manner whatsoever. Respondent No.2/accused continuously threatened the petitioner to withdraw the complaint. She also filed a petition for quashing of the FIR based on a compromise, which was got executed by exercising influence upon the present petitioner. She is misusing the opportunity extended to her. Therefore, it was prayed that the present petition be allowed and the bail be cancelled.

2. The petition is opposed by filing a status report reproducing the contents of the FIR. It was asserted that the petitioner/informant approached the Investigating Officer and told him that the matter was compromised. The police advised the informant to produce the compromise before the Court. Thereafter, the informant made a complaint regarding the threat advanced to him. The police called him, but he did not make a statement to the police. The investigation is continuing. Hence, the status report.

3. A separate reply was filed by respondent No.2/accused, making preliminary submissions regarding the lack of

maintainability and the informant having not come to the Court with clean hands. It was asserted that the FIR was lodged against the accused with an ulterior motive to extract money from her. It was specifically denied that the accused had tried to pressurize the informant to enter into any compromise. The informant purchased the stamp paper and got the compromise typed on his own. Therefore, it was prayed that the present petition be dismissed.

4. A reply to the status report was also filed by the informant/petitioner, denying its contents.

5. During the pendency of the proceedings, it was submitted on behalf of respondent No.2/accused that the informant/petitioner had demanded ₹50.00 lacs for compromising the matter, and she had recorded a mobile conversation to this effect. Since this was a serious matter, therefore, the police were directed to investigate the matter. The police submitted a report that an audio file containing the conversation between the informant and the accused was recovered from the mobile phones. The voice matched the voice of the informant.

6. I have heard Mr Rajat Kumar, learned counsel for the petitioner/informant, Mr Jitender Sharma, learned Additional Advocate General, for respondent No.1/State and Mr. Bimal Gupta, learned Senior Counsel, assisted by Mr Trigun Singh Negi, learned counsel for respondent No.2/accused.

7. Mr Rajat Kumar, learned counsel for the petitioner/informant, submitted that the accused had pressurised the informant to compromise the matter. She filed a petition for quashing of the FIR based on a compromise. The Court had imposed a specific condition that she would not influence the witnesses. She has violated the conditions imposed by the Court. Therefore, he prayed that the present petition be allowed and the bail granted to respondent No.2/accused be cancelled.

8. Mr Jitender Sharma, learned Additional Advocate General, for respondent No.1/State, submitted that the informant complained to the police regarding the threat. The police asked the informant to join the investigation, but he did not do so. There is no material to infer that the accused had threatened the informant. Therefore, he prayed that the present petition be dismissed.

9. Mr Bimal Gupta, learned Senior Counsel for respondent No.2/accused, submitted that the petitioner had called respondent No.2/accused and demanded ₹50.00 lacs from her. This call was recorded, and the mobile phone was sent to the Forensic Science Laboratory. The report of the laboratory shows that the informant's voice matched the voice in the call recording. The informant filed the petition to pressurize respondent No.2/accused to pay him money. Hence, he prayed that the present petition be dismissed.

10. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

11. The Hon'ble Supreme Court held in *Ajwar v. Waseem* (2024) 10 SCC 768: 2024 SCC OnLine SC 974 that the bail, once granted, should not be cancelled mechanically; however, an unreasoned and perverse order is open to interference by the Superior Court. The bail can be cancelled if there are serious allegations against the accused. It was observed at page 783:

“27. It is equally well settled that bail, once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse bail order is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by

the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on society, resulting in such an order. In *P v. State of M.P.*, (2022) 15 SCC 211 decided by a three-judge Bench of this Court [authored by one of us (Hima Kohli, J.)] has spelt out the considerations that must weigh with the Court for interfering in an order granting bail to an accused under Section 439(1) CrPC in the following words : (SCC p. 224, para 24)

“24. As can be discerned from the above decisions, for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [*Dolat Ram v. State of Haryana*, (1995) 1 SCC 349: 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loath to interfere with an order passed by the court below granting bail, but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.”

Considerations for Setting Aside Bail Orders

28. The considerations that weigh with the appellate court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at

the stage of granting bail, only a prima facie case needs to be examined, and detailed reasons relating to the merits of the case that may cause prejudice to the accused ought to be avoided. Suffice it to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

29. In *Jagjeet Singh [Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321: (2022) 3 SCC (Cri) 560]*, a three-judge Bench of this Court has observed that the power to grant bail under Section 439CrPC is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding a bail application. But this discretion is not unfettered. The order passed must reflect the due application of the judicial mind following well-established principles of law. In the ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate court would be well within its power to set aside and cancel the bail. (Also refer: *Puran v. Rambilas [Puran v. Rambilas, (2001) 6 SCC 338: 2001 SCC (Cri) 1124]*; *Narendra K. Amin v. State of Gujarat [Narendra K. Amin v. State of Gujarat, (2008) 13 SCC 584: (2009) 3 SCC (Cri) 813]*.)

12. Similar is the judgment passed by the Hon'ble Supreme Court in *Manik Madhukar versus Vitthal Damuji Meher and Ors. 2024: INSC:636* wherein it was observed as under: -

"19. Courts, while granting bail, are required to consider relevant factors such as the nature of the accusation, the role ascribed to the accused concerned, possibilities/chances of tampering with the evidence and/or witnesses, antecedents, flight risk, *et al.* Speaking through Hima Kohli, J., the present *coram* in *Ajwar v. Waseem, 2024 SCC OnLine SC 974*, apropos relevant parameters for granting bail, observed:

“26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. (Refer: *Chaman Lal v. State of U.P.* (2004) 7 SCC 525; *Kalyan Chandra Sarkar v. Rajesh Ranjan alias Pappu Yadav (supra)* (2004) 7 SCC 528; *Masroor v. State of Uttar Pradesh* (2009) 14 SCC 286; *Prasanta Kumar Sarkar v. Ashis Chatterjee* (2010) 14 SCC 496; *Neeru Yadav v. State of Uttar Pradesh* (2014) 16 SCC 508; *Anil Kumar Yadav v. State (NCT of Delhi)* (2018) 12 SCC 129; *Mahipal v. Rajesh Kumar @ Polia (supra)* (2020) 2 SCC 118.

27. It is equally well settled that bail, once granted, ought not to be cancelled in a mechanical manner. However, an unreasoned or perverse order of bail is always open to interference by the Superior Court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a Superior Court if it transpires that the courts below have ignored the relevant material available on record or not looked into the gravity of the offence or the impact on society, resulting in such an order. In *P v. State of Madhya Pradesh (supra)* (2022), 15 SCR 211 decided by a three-judge bench of this Court [authored by one of us (Hima Kohli, J)] has spelt out the considerations that must be weighed with the Court for interfering in an order granting bail to an accused under Section 439(1) of the CrPC in the following words:

“24. As can be discerned from the above decisions, *for cancelling bail once granted, the court must consider whether any supervening circumstances have arisen or the conduct of the accused post grant of bail demonstrates that it is no longer conducive to a fair trial to permit him to retain his freedom by enjoying the concession of bail during trial [Dolat Ram v. State of Haryana, (1995) 1 SCC 349: 1995 SCC (Cri) 237]. To put it differently, in ordinary circumstances, this Court would be loath to interfere with an order passed by the court below granting bail, but if such an order is found to be illegal or perverse or premised on material that is irrelevant, then such an order is susceptible to scrutiny and interference by the appellate court.*” (emphasis supplied)

20. In *State of Haryana v. Dharamraj*, 2023 SCC OnLine SC 1085, speaking through one of us (Ahsanuddin Amanullah, J.), the Court, while setting aside an order of the Punjab and Haryana High Court granting (anticipatory) bail, discussed and reasoned:

“7. A foray, albeit brief, into relevant precedents is warranted. *This Court considered the factors to guide the grant of bail in Ram Govind Upadhyay v. Sudarshan Singh (2002) 3 SCC 598 and Kalyan Chandra Sarkar v. Rajesh Ranjan (2004) 7 SCC 528. In Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496, the relevant principles were restated thus:*

‘9. ... *It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:*

- (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) nature and gravity of the accusation;
- (iii) severity of the punishment in the event of conviction;
- (iv) danger of the accused absconding or fleeing if released on bail;
- (v) character, behaviour, means, position and standing of the accused;
- (vi) likelihood of the offence being repeated;
- (vii) reasonable apprehension of the witnesses being influenced; and
- (viii) danger, of course, of justice being thwarted by the grant of bail.'

8. In *Mahipal v. Rajesh Kumar alias Polia* (2020) 2 SCC 118, this Court opined as under:

'16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted. ...'

9. In *Bhagwan Singh v. Dilip Kumar @ Deepu @ Depak*, 2023 INSC 761, this Court, in view of *Dolat Ram v. State of Haryana*, (1995) 1 SCC 349; *Kashmira Singh v. Duman Singh*, (1996) 4 SCC 693 and *X v. State of Telangana*, (2018) 16 SCC 511, held as follows:

‘13. It is also required to be borne in mind that when a prayer is made for the cancellation of the grant of bail, cogent and overwhelming circumstances must be present, and bail, once granted, cannot be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it in conducting to allow a fair trial. This proposition draws support from the Judgment of this Court in Daulat Ram v. State of Haryana (1995) 1 SCC 349, Kashmira Singh v. Duman Singh (1996) 4 SCC 693 and XXX v. State of Telangana (2018) 16 SCC 511.’

10. In *XXX v. Union Territory of Andaman & Nicobar Islands*, 2023 INSC 767, this Court noted that the principles in *Prasanta Kumar Sarkar (supra)* stood reiterated in *Jagjeet Singh v. Ashish Mishra (2022) 9 SCC 321*.

11. The contours of anticipatory bail have been elaborately dealt with by 5-Judge Benches in *Gurbaksh Singh Sibbia v. State of Punjab*, (1980) 2 SCC 565 and *Sushila Aggarwal v. State (NCT of Delhi)*, (2020) 5 SCC 1. *Siddharam Satlingappa Mhetre v. State of Maharashtra*, (2011) 1 SCC 694 is worthy of mention in this context, despite its partial overruling in *Sushila Aggarwal (supra)*. We are cognizant that liberty is not to be interfered with easily. More so when an order of pre-arrest bail already stands granted by the High Court.

12. Yet, much like bail, the grant of anticipatory bail is to be exercised with judicial discretion. The factors illustrated by this Court through its pronouncements are illustrative and not exhaustive. Undoubtedly, the fate of each case turns on its own facts and merits.” (emphasis supplied)

21. In *Ajwar (supra)*, this Court also examined the considerations for setting aside bail orders in terms below:

“28. The considerations that weigh with the appellate Court for setting aside the bail order on an application being moved by the aggrieved party include any supervening circumstances that may have occurred after granting relief to the accused, the conduct of the accused

while on bail, any attempt on the part of the accused to procrastinate, resulting in delaying the trial, any instance of threats being extended to the witnesses while on bail, any attempt on the part of the accused to tamper with the evidence in any manner. We may add that this list is only illustrative and not exhaustive. However, the court must be cautious that at the stage of granting bail, only a prima facie case needs to be examined, and detailed reasons relating to the merits of the case that may cause prejudice to the accused ought to be avoided. Suffice it to state that the bail order should reveal the factors that have been considered by the Court for granting relief to the accused.

29. In *Jagjeet Singh (supra)* (2022) 9 SCC 321, a three-judge bench of this Court has observed that the power to grant bail under Section 439 Cr. P.C. is of wide amplitude and the High Court or a Sessions Court, as the case may be, is bestowed with considerable discretion while deciding an application for bail. But this discretion is not unfettered. The order passed must reflect the due application of the judicial mind following well-established principles of law. In the ordinary course, courts would be slow to interfere with the order where bail has been granted by the courts below. But if it is found that such an order is illegal or perverse or based upon utterly irrelevant material, the appellate Court would be well within its power to set aside and cancel the bail. (Also refer: *Puran v. Ram Bilas* (2001) 6 SCC 338; *Narendra K. Amin (Dr.) v. State of Gujarat* (2008) 13 SCC 584)” (emphasis supplied)

13. This position was reiterated in *State of Karnataka v. Sri Darshan*, 2025 SCC OnLine SC 1702, wherein it was observed:

(B) Cancellation of bail

18.10. As per Halsbury's Laws of England, the grant of bail does not set the accused at liberty in the absolute sense but

merely shifts custody from the State to the sureties. Consequently, cancellation of bail entails an assessment of whether the accused has abused the liberty so conferred.

18.11. In *Dolat Ram v. State of Haryana (1995) 1 SCC 349*, this Court delineated broad, though not exhaustive, grounds justifying cancellation of bail, including:

- Interference or attempt to interfere with the due course of justice;
- Evasion of justice;
- Abuse of the concession of bail;
- Likelihood of the accused fleeing from justice.

18.12. In *Abdul Basit v. Abdul Kadir Choudhary (2014) 10 SCC 754*, this Court elaborated the circumstances in which bail granted under Section 439(2) Cr. P.C. may be cancelled, including where the accused:

- engages in similar criminal activity post-bail;
- interferes with or obstructs the investigation;
- tampers with evidence or influences witnesses;
- intimidates or threatens witnesses;
- attempts to abscond or evade judicial process;
- becomes unavailable or goes underground;
- violates the conditions imposed or evades the control of sureties.

18.13. In *Mahipal v. Rajesh Kumar (2020) 2 SCC 118*, Justice D.Y. Chandrachud explained:

“An appellate court is empowered to set aside a bail order if it is found to be based on a misapplication of legal principles or where relevant considerations have been ignored. On the other hand, cancellation of bail typically arises from post-bail conduct or supervening circumstances.”

18.14. Finally, in *Deepak Yadav v. State of U.P. Criminal Appeal No. 861 of 2022 (@ SLP (Crl.) No. 9655 of 2021) dated 20.05.2022*, this Court reaffirmed that bail already granted should not be cancelled in a routine or mechanical manner. Only cogent and overwhelming circumstances, which

threaten the fairness of the trial or the interest of justice, would warrant such interference.

18.15. Thus, it is clear that while cancellation of bail is a serious matter involving deprivation of personal liberty, the law does permit annulment of a bail order that is unjustified, legally untenable, or passed without due regard to material considerations. The distinction between annulment of bail orders due to perversity and cancellation for post-bail misconduct must be clearly understood and applied, ensuring a careful, calibrated, and constitutionally sound approach to the administration of criminal justice.

14. The present petition has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

15. The status report specifically mentions that the informant complained to the police about the threats advanced to him, but he did not join the investigation when he was called to do so. Therefore, the status report does not confirm the allegations made in the petition regarding the informant's intimidation. The petitioner has sought the cancellation of the bail only on the ground that the accused is intimidating him. Since this fact has not been established, therefore, the bail cannot be cancelled.

16. However, the matter cannot be left here. The allegations made by respondent No.2/accused regarding the demand of ₹50.00 lacs for compromising the matter with the petitioner are serious. *Prima facie*, they have been confirmed by

the report of the FSL. Demand of ₹50.00 lacs by the informant from the accused to compromise the matter amounts to interference with the Administration of Justice as well as the commission of offences punishable under BNS, and the action is required to be taken in the matter. The transcript of the conversation is not on record. Hence, the State is directed to file the transcript of the conversation on record, and the petitioner will show cause as to why the proceedings for Contempt of Court for interfering with the Administration of Justice and for committing the offence punishable under BNS should not be initiated against him within two weeks.

(Rakesh Kainthla)
Judge

10th December, 2025
(Chander)