

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr. MP(M) No. 820 of 2026**

**Reserved on: 13.5.2026**

**Date of Decision: 20.5.2026.**

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Bhajan Lal Negi	.... Petitioner
Versus	
State of HP & anr.	.... Respondents

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*Coram*

*Hon'ble Mr Justice Rakesh Kainthla, Judge.*

*Whether approved for reporting?<sup>1</sup> No.*

For the Petitioner : M/s Kartik Rajta and Ruchika Khachi, Advocates.

For the Respondent/State : Mr. Jitender Sharma, Additional Advocate General.

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***Rakesh Kainthla, Judge***

The petitioner has filed the present petition for cancellation of the bail granted by this Court in Cr.MP(M) No. 706 of 2026 titled Anita Nathta Vs. State of H.P., decided on 30.4.2026.

2. It has been asserted that the petitioner is the complainant in FIR No. 95 of 2023 for the commission of offences punishable under Sections 409 and 420, read with Section 120-B of the Indian Penal Code (IPC) and other relevant

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

provisions. Respondent No.2/accused had initially approached the Court of learned Additional Sessions Judge, Rohru, for seeking pre-arrest bail. This application was dismissed by the learned Additional Sessions Judge, considering the seriousness of the allegations. Respondent No.2/accused approached this Court, and this Court granted pre-arrest bail to the respondent/accused in Cr.MP(M) No. 706 of 2026. The order has been passed without considering the gravity and the seriousness of the allegation, especially those pertaining to the misappropriation of public funds. The pre-arrest bail application of respondent No.2/accused had already been rejected by the learned Trial Court after due consideration, and this was not considered by this Court while granting bail. Respondent No.2/accused is likely to misuse the concession of pre-arrest bail. She is attempting to influence witnesses and interfere with the investigation. Her custodial interrogation is necessary for proper investigation and recovery of misappropriated funds. The signatures of the accused can only be obtained under Section 311A of Cr.PC only if the person is in custody. The State had failed to disclose the requirement of obtaining the specimen signatures; hence, the present petition.

3. I have heard M/s Kritika Rajta and Ruchika Khachi, learned counsel for the petitioner, and Mr Jitender Sharma, learned Additional Advocate General for respondent No.1/State.

4. Ms. Ruchika Khachi, learned counsel for the petitioner, submitted that respondent No.2/accused had applied for pre-arrest bail before the learned Additional Sessions Judge and her application was rejected. This Court had granted bail without considering the seriousness of the offence. The custody of respondent No.2/accused is required for obtaining her signature, as the signatures cannot be obtained under Section 311A without arresting the accused. The petitioner is influencing the witnesses; therefore, she prayed that the present petition be allowed and the pre-arrest bail granted to respondent No.2/accused be cancelled.

5. Mr Jitender Sharma, learned additional Advocate General for respondent No.1/State submitted that an appropriate order may be passed in the present petition.

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

7. 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:

“7. 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.* [*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].)*

8. 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 inadvisable 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)*

9. 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.

19. At this juncture, it is apposite to refer to the decision of this Bench in *Pinki v. State of Uttar Pradesh 2025 INSC 482*, wherein the bail granted to the accused therein was cancelled, after a detailed consideration of the facts and the gravity of the offence, namely, child trafficking, as well as the legal principles. The Court underscored that while personal liberty is a cherished constitutional value, it is not absolute. Liberty must yield where it poses a threat to the collective interest of society. No individual can claim a liberty that endangers the life or liberty of others, as the rational collective cannot tolerate anti-social or anti-collective conduct. Emphasizing that bail jurisprudence is inherently fact-specific, the Court reiterated that each bail application must be decided on its own merits, in light of the well settled on its own merits, in light of the well-settled parameters governing grant or denial of bail.....

10. It was submitted that the Court had not considered the gravity of the offence while granting the pre-arrest bail. This submission is only stated to be rejected. Para-2 of the order specifically mentions that the Court had considered the nature of the offence while granting the pre-arrest bail. The Court had refrained from giving the details to avoid prejudice to any person during

the trial. The FIR was lodged on 14.6.2023, and no arrest was effected till the year 2026, which showed that the custodial interrogation of the accused was not required. The offences alleged against respondent No.2/accused were triable by the Magistrate. The police had filed a status report asserting that no recovery is to be effected from respondent No.2/accused. All these circumstances weighed with the Court while granting the pre-arrest bail, and it is incorrect to say that the court had not considered the gravity and the nature of the offence.

11. It was submitted that the custody of the accused is necessary to obtain the specimen signatures. This submission is only stated to be rejected. It was laid down by this Court in *Jatinder Kumar versus State of H.P. Latest HLJ 2009 (1) 278 HP* that release on bail puts the person in the custody of the Court, and his signatures can be taken under Section 311A of the Cr.P.C. It was observed:-

“5. It will not be correct to say that only because the accused person is released on bail, he ceases to be in the custody; therefore, the Magistrate would not be competent to exercise his powers under Section 311-A Cr.P.C. If the bail is granted, the reality is not changed, and from the fact above, it cannot be said

that he is not a "person arrested for an offence". A person released on bail is still considered to be detained in the custody of the court through his surety. He is under an obligation to appear before the court whenever required or directed so to do. Therefore, to that extent, his liberty is subject to restraint. He is notionally in the custody of the court, hence continues to be a "person arrested". Therefore, the jurisdiction of the Magistrate to pass the appropriate orders under Section 311-A of the Code of Criminal Procedure, because the person enlarged on bail is not affected at all. Hence, for the reasons aforesaid, there is no hurdle to grant the bail to the petitioner on this objection alone. It is made clear that the powers of the Magistrate are not at all affected in any manner to take his specimen signatures, if it is thought expedient to do so."

12. Therefore, the very basis of the petition that the petitioner should be in actual police or judicial custody is wrong, and the release on bail also amounts to custody within the meaning of Section 311A of the Cr.PC; hence, the submission that bail is required to be cancelled for obtaining the specimen signatures is not acceptable.

13. It was submitted that respondent No.2/accused intimidated the witnesses; however, the name of the person who was so intimidated has not been mentioned. The copy of any complaint made to the police has also not

been filed, therefore it is difficult to agree with the submission that the petitioner intimidated the witnesses.

14. It was submitted that the misappropriated funds are to be recovered, for which purpose the pre-arrest bail of respondent No.2/accused is required. This submission will not help the petitioner. It was laid down by the Hon'ble Supreme Court in *Ramesh Kumar vs. State NCT of Delhi* (2023) 7 SCC 461 that the bail proceedings cannot be turned into recovery proceedings. It was observed: -

23. In *Dilip Singh v. State of M.P.* [*Dilip Singh v. State of M.P.*, (2021) 2 SCC 779: (2021) 2 SCC (Cri) 106], this Court sounded a note of caution in the following words: (SCC p. 780, paras 3-4)

“3. By imposing the condition of deposit of Rs 41 lakhs, the High Court has, in an application for pre-arrest bail under Section 438 of the Criminal Procedure Code, virtually issued directions in the nature of recovery in a civil suit.

4. It is well settled by a plethora of decisions of this Court that criminal proceedings are not for the realisation of disputed dues. It is open to a court to grant or refuse the prayer for anticipatory bail, depending on the facts and circumstances of the particular case. The factors to be taken into consideration, while considering an application for bail are the nature of the accusation and the severity of the punishment in the case of conviction and the nature of the materials relied upon by the prosecution; reasonable apprehension of

tampering with the witnesses or apprehension of threat to the complainant or the witnesses; the reasonable possibility of securing the presence of the accused at the time of trial or the likelihood of his abscondence; character, behaviour and standing of the accused; and the circumstances which are peculiar or the accused and larger interest of the public or the State and similar other considerations. A criminal court, exercising jurisdiction to grant bail/anticipatory bail, is not expected to act as a recovery agent to realise the dues of the complainant, and that too, without any trial.”

24. Yet again in *Bimla Tiwari v. State of Bihar [Bimla Tiwari v. State of Bihar, (2023) 11 SCC 607: 2023 SCC OnLine SC 51]*, this is what the Court said : (SCC paras 9-11)

“9. We have indicated on more than one occasion that the process of criminal law, particularly in matters of grant of bail, is not akin to money recovery proceedings, but what has been noticed in the present case carries the peculiarities of its own.

10. We would reiterate that the process of criminal law cannot be utilised for arm-twisting and money recovery, particularly while opposing the prayer for bail. The question as to whether pre-arrest bail, or for that matter regular bail, in a given case is to be granted or not is required to be examined, and the discretion is required to be exercised by the Court with reference to the material on record and the parameters governing bail considerations. Putting it in other words, in a given case, the concession of pre-arrest bail or regular bail could be declined even if the accused has made payment of the money involved or offers to make any payment; conversely, in a given case, the concession of pre-arrest bail or regular bail could be granted irrespective of any payment or any offer of payment.

11. We would further emphasise that, ordinarily, there is no justification in adopting such a course that, for the purpose of being given the concession of pre-arrest bail, the person apprehending arrest ought to make payment. Recovery of money is essentially within the realm of civil proceedings.”

25. Law regarding the exercise of discretion while granting a prayer for bail under Section 438 CrPC having been authoritatively laid down by this Court, we cannot but disapprove the imposition of a condition of the nature under challenge. Assuming that there is substance in the allegation of the complainants that the appellant (either in connivance with the builder or even in the absence of any such connivance) has cheated the complainants, the investigation is yet to result in a charge sheet being filed under Section 173(2) CrPC, not to speak of the alleged offence being proved before the competent trial court in accordance with the settled procedures and the applicable laws. Sub-section (2) of Section 438 CrPC does empower the High Court or the Court of Session to impose such conditions while making a direction under sub-section (1) as it may think fit in the light of the facts of the particular case, and such direction may include the conditions as in clauses (i) to (iv) thereof. However, a reading of the precedents laid down by this Court referred to above makes the position of law clear that the conditions to be imposed must not be onerous, unreasonable or excessive. In the context of the grant of bail, all such conditions that would facilitate the appearance of the accused before the investigating officer/court, unhindered completion of investigation/trial and safety of the community assume relevance. However, the inclusion of a condition for payment of money by the applicant for bail tends to create an impression that bail could be secured by depositing

money alleged to have been cheated. That is really not the purpose and intent of the provisions for the grant of bail.

15. Therefore, it is not permissible to arrest respondent No.2/accused to enable the police to effect the recovery of the money.

16. Hon'ble Supreme Court held in *State of Rajasthan v. Balchand*, (1977) 4 SCC 308: 1977 SCC (Cri) 594: 1977 SCC OnLine SC 261 that the normal rule is bail and not jail, except where the gravity of the crime or the heinousness of the offence suggests otherwise. It was observed at page 308:

2. The basic rule may perhaps be tersely put as bail, not jail, except where there are circumstances suggestive of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like, by the petitioner who seeks enlargement on bail from the Court. We do not intend to be exhaustive but only illustrative.

3. It is true that the gravity of the offence involved is likely to induce the petitioner to avoid the course of justice and must weigh with us when considering the question of jail. So also, the heinousness of the crime....”

17. No other point was urged.

18. In view of the above, the present petition fails, and it is dismissed.

19. The observation made herein before shall remain confined to the disposal of the instant petition and will have no bearing whatsoever on the merits of the case.

**(Rakesh Kainthla)**  
**Judge**

20<sup>th</sup> May, 2026  
(Chander)