

## Joginder Singh Vs Hukam Chand and another

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Oct. 14, 2004

**Citation:** (2004) 4 RCR(Criminal) 1007

**Hon'ble Judges:** M.M.Kumar, J

**Advocate:** Mr. Roopak Bansal, Advocate., Advocates for appearing Parties

### Judgement

M.M. Kumar, J.

1. This petition filed under Section 439(2) of the Code of Criminal Procedure, 1973 (for brevity, `Cr.P.C.") prays for cancellation of regular bail

granted to accusedrespondent 1 by the learned Additional Sessions Judge, Jind vide order dated 21.9.2004. The basic reason which weighed with

the learned Additional Sessions Judge for grant of bail appears to be that the death of deceased Kanwar Bhan has been caused by the fall of a

kikkar tree when he was digging a tubewell pit along with others. The dead body of the deceased was buried in the fields of Sat Pal which was

lateron recovered from the fields. The case of the prosecution appears to be based on extrajudicial confession and the name of Hukam Chand to

whom the bail was granted is alleged to have been introduced lateron. It was also urged that the dead body was not recovered at the instance of

Hukam Chand accusedrespondent 1.

2. Having heard the learned counsel, I do not find any ground under Section 439(2) Cr.P.C. to cancel the bail granted to Hukam Chand

accusedrespondent 1 by the learned Additional Sessions Judge vide his order dated 21.9.2004. The allegation with regard to threat to any

prosecution witness has not been substantiated and after the observations made by the Court, the learned counsel has only referred to the general

allegations made in paragraph 7 of the petition. The considerations for cancellation of bail are entirely different than the one which prevail for grant

of bail. There are various situations in which the discretion to cancel the bail could be exercised. If a person during the period of bail commits the

same very offence for which he is being tried, or has been convicted or if he hampers the investigation by forcibly preventing the search of places

under his control or if he tampers with evidence by intimidating the prosecution witnesses or taking steps by destroying the incriminating evidence

or if he goes beyond the control of his sureties or commits acts of violence in revenge against the police or the prosecution witnesses. In the

aforementioned cases, the High Court may commit a person back to jail under Section 439(2) Cr.P.C. Reference, in this regard, may be made to

the judgment of Supreme Court in the case of State (Delhi Administration) v. Sanjay Gandhi, 1978(2) SCC 411. None of the aforementioned

grounds has been substantiated by the petitioner which may warrant exercise of jurisdiction under Section 439(2) Cr.P.C. Therefore, the instant

application is liable to be rejected.

For the reasons stated above, this petition fails and the same is dismissed.