

Neutral Citation No. - 2024:AHC-LKO:26823

Court No. - 15

Case :- APPLICATION U/S 482 No. - 2811 of 2024

Applicant :- Badri Kumar Shrestha

Opposite Party :- Central Bureau Of Investigation Thru. Superintendent Of Police Cbi Acb Lko.

Counsel for Applicant :- Aditya Singh, Nadeem Murtaza

Counsel for Opposite Party :- Anurag Kumar Singh

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri S.C. Mishra, learned Senior Advocate assisted by Shri Nadeem Murtaza, learned counsel for the applicant as well as Shri Anurag Kumar Singh, learned counsel appearing for CBI and perused the record.

2. The instant application under Section 482 Cr.P.C. has been moved by the applicant- Badri Kumar Shrestha with the prayer to quash the order dated 05.03.2024 passed by the Special Judge, CBI (West), Lucknow in Criminal Case No. RC0062017A0026 in re: *CBI Vs Roop Singh Yadav and others*, under Sections 120-B, 420, 467, 468, 471 I.P.C. & Section 13 (2) read with Section 13 (1) (d) of Prevention of Corruption Act, 1988, Police Station- CBI, ACB, District- Lucknow, during trial, whereby the application moved by the applicant under Section 88 Cr.P.C. for the purpose of taking bonds with or without sureties has been rejected by the Special Court and also to permit the applicant to execute bond to the satisfaction of this Court and also to deposit the bond amount in the above mentioned case for his presence before the trial Court.

3. Shri SC Mishra, learned Senior counsel, while drawing the attention of this Court towards Section 88 Cr.P.C., submits that whenever for the attendance of a person, summons or a warrant has been issued, this

Section empowers the Court to take bond for appearance of that person before the Court, with or without sureties. Attention of this Court has also been drawn towards para No.34, 35 and 36 of the law laid down by the Hon'ble Supreme Court in ***Satendra Kumar Antil vs CBI and another reported in (2022) 10 SCC 51*** and it is submitted that Special Court/ Trial court has committed manifest illegality in rejecting the prayer of the applicant.

4. While drawing the attention of this Court towards the charge sheet submitted by the Central Bureau of Investigation, it is vehemently submitted that in April, 2015 the Gomti River Development Project, Lucknow was launched for beautification of both the banks of the Gomti River and the contract was awarded to M/s Gammon India for Rs. 600 Crs. and the company started the work. However, due to *Monsoon*, the storm water was flowing through the Nallah, by which the work suffered and in that emergent situation, short term tender was floated by the Department, by which 36 Nallahs falling in the Gomti River, were required to be intercepted and diverted to the downstream of the Gomti River.

5. It is also submitted that one Brand Eagle Longjian JV (hereinafter referred to as Brand Eagle), which was already executing large projects for the Government of India and of which the applicant is an independent advisor/ consultant for engineering projects and is not associated with its day to day working, intended to participate in the above mentioned tender process and entered into a sub-contract with M/s KK Spun India Ltd. And in the meantime, the above mentioned KK Spun India Ltd. Also decided to participate in the aforesaid tender and on 7.9.2015, the tender bids were opened and the aforesaid KK Spun was short listed as the lowest bidder i.e. L-1, while the Brand Eagle was the second lowest bidder (L-2) and the bid of KK Spun was accepted.

However, thereafter noticing some alleged irregularities in the project, a committee was appointed by the Government and on the basis of the report of that committee an FIR was registered at Police Station- Gomti Nagar, Lucknow bearing Case Crime No.831/ 2017 and applicant was not named therein and later on, investigation of the said FIR was transferred to the Central Bureau of Investigation and a regular case was registered in the CBI, ACB Lucknow bearing No.RC002017A0026 and it was on 15.2.2021, the charge sheet was filed therein by the CBI arraying the applicant as one the accused.

6. It is vehemently submitted that the sole allegation against the applicant in the charge sheet is that he allegedly illegally authorize one Mr. Shahid to purchase the tender document on behalf of Brand Eagle even though, the said company was not eligible to participate in the tender process as the same was not registered with the Irrigation Department and the same by itself may not attract any penal offences wherein the charge sheet has been filed.

7. It is further submitted that applicant was an independent consultant/ advisor of Brand Eagle company and only on account of giving any advice, he may not be treated as an accused and there is no material which may attract any conspiracy of the applicant with any case. There is no allegation in the charge sheet that applicant has forged any document or signed any forged document or used any such forged document as genuine and admittedly the applicant is not a member.

8. It is also submitted that applicant had earlier preferred an application under Section 438 Cr.P.C for anticipatory bail before the Sessions Judge, Lucknow, which was rejected on 11.10.2022 and thereafter, an application under Section 438 Cr.P.C. bearing No.2102 of 2022 was moved before this Court which was also rejected by judgment and order dated 15.12.2022 and aggrieved by the same, the applicant has

filed a Special Leave Petition (Crl.) No.1459/ 2023 against the aforesaid judgment and order dated 15.12.2022 and the same was disposed of by the Hon'ble Supreme Court vide judgment and order dated 07.02.2023 with the direction that in the event the applicant would apply for bail, the trial Court shall consider and pass orders as expeditiously as possible, uninfluenced by the orders of the Hon'ble Supreme Court.

9. It is vehemently submitted that after passing of the judgment and order dated 7.2.2023 by the Hon'ble Supreme Court, the main accused of the alleged crime, Shri Roop Singh Yadav was granted bail by the Hon'ble Supreme Court vide order dated 20.2.2023 passed in SLP (Crl.) No.12932 of 2022 and Co-accused Shri Kavish Gupta, Director of M/s KK Spun India Ltd was granted anticipatory bail vide order dated 25.5.2023 passed in Criminal Misc. Anticipatory Bail Application U/s 438 Cr.P.C. No.428 of 2023 by a Coordinate Bench of this Court and thereafter, co-accused Himanshu Gupta was granted interim anticipatory bail by a Coordinate Bench of this Court vide order dated 2.3.2023 passed in Criminal Misc. Anticipatory Bail Application U/s 438 Cr.P.C. No.592/ 2023 and another co-accused Shri Raj Kumar Yadav has also been granted regular bail by a Coordinate Bench of this Court vide order 5.4.2023 passed in Criminal Misc. Bail Application No.3289 of 2023 and in view of the aforesaid change of facts, the applicant preferred a second anticipatory bail application before this Court bearing Criminal Misc. Anticipatory Bail Application U/s 438 Cr.P.C. No.797 of 2023, which was dismissed by this Court vide judgment and order dated 4.4.2023. Thereafter, applicant preferred an application before Hon'ble Supreme Court bearing *IA No.72515 of 2023, IA No.72521 of 2023 in MA No.2034/ 2022 and MA No.1849/ 2021 in SLP (Crl.) No. 5191 of 2021 'Satender Kumar Antil Vs. CBI'*, which was disposed of by the Hon'ble Supreme Court vide order

dated 2.5.2023 with the liberty to file independent proceedings against the order dated 4.4.2023.

10. It is further submitted that in view of the liberty granted by the Hon'ble Supreme Court, the applicant filed an *SLP (Crl.) No.7012 of 2023* before the Hon'ble Supreme Court, however, the same was permitted to be withdrawn as the petitioner intended to take steps to comply the judgment and order of the Hon'ble Supreme Court dated 7.2.2023.

11. It is further submitted that the applicant had also challenged the summoning order passed in this case of date 09.05.2022 by filing another application U/s 482 Cr.P.C No.7528 of 2023, which is still pending for consideration before this Court and thereafter, the applicant has preferred an application under Section 88 of the Cr.P.C. in compliance with the direction of the Hon'ble Supreme Court vide order dated 7.2.2023 and 16.6.2023, which has been rejected by the trial Court by passing impugned order of date 5.3.2024.

12. It is vehemently submitted that the sole ground for rejection of the application preferred by the applicant is that he has availed appropriate remedies and has failed to comply with the directions passed in judgment and order of the Hon'ble Supreme Court dated 7.2.2023 and the Special Judge failed to understand that in no manner, there was any direction for surrender of the applicant and thereafter, to move a bail application.

13. It is vehemently submitted that applicant is suffering from serious heart ailments and had been admitted in *Medanta Hospital Gurugram* on 19.7.2023 and he is ready to cooperate in the trial and when he has not been arrested by the investigating agency and the charge sheet has been filed without making his arrest, there is no logic in compelling him to secure regular bail while there is ample provision in the shape of

Section 88 Cr.P.C. in the Code for the purpose of securing his presence/ appearance before the Trial Court during the course of trial.

14. Learned Senior Counsel has placed reliance on law laid down by Hon'ble Supreme Court in ***Satender Kumar Antil Vs. CBI*** passed in SLP (Crl.) No.5191 of 2021 vide order dated 28.07.2021; ***Satender Kumar Antil Vs. CBI***, (2021) 10 SCC 773; ***Satender Kumar Antil Vs. CBI*** (2022) 10 SCC 51; ***Satender Kumar Antil Vs. CBI***, passed in M.A. No. 2034 of 2022 in MA No. 1849 of 2021 in SLP (Crl.) No.5191 of 2021 vide order dated 13.3.2023, ***Mahdoo Bava vs. CBI***, passed in SLP (Crl.) No. 376 of 2023; ***Satender Kumar Antil Vs. CBI*** passed in MA No.2034 of 2022 in MA no.1849 of 2021 in SLP (Crl.) No.5191 of 2021 vide order dated 21.3.2023; ***Satender Kumar Antil Vs. CBI*** passed in MA No. 2035 of 2022 in MA No.1849 of 2021 in SLP (Crl.) No.5191 of 2021 vide order dated 02.05.2023; ***Siddharth Vs. State of U.P. and Anr.*** (2022) 1 SCC 676; ***Satender Kumar Antil Vs. CBI*** passed in MA No.2034 of 2022 in MA NO.1849/ 2021 in SLP (Crl.) No. 5191 of 2021 vide order dated 13.2.2024.

15. Shri Anurag Kumar Singh, learned counsel appearing for CBI, while drawing the attention of this Court towards the charge sheet submitted by the CBI, vehemently submits that after thorough investigation, finding the connivance of the applicant with other co-accused persons of the crime, the charge sheet was submitted against him. The attention of this Court has also been drawn towards the relevant portion of the charge sheet in order to show the culpability of the applicant and role played in the offence and it is vehemently submitted that it was the applicant who was acting as a senior advisor to M/s Brand Eagle and he vide his letter dated 25.8.2015 had illegally authorised his representative Mr. Shahid to purchase the tender document even though the company was not registered with the Irrigation Department and was

not eligible to participate in the tender process and it is in furtherance, the criminal conspiracy hatched with other co-accused persons, the contract has been illegally obtained by M/s KK Spun Pipe Pvt. Ltd. Various other instances have also been highlighted, occurring in the charge sheet in order to show the connivance of the applicant with other co-accused persons.

16. It is also submitted that the applicant is misusing the process of law as he had appeared before this Court twice and thereafter, had earlier been before the Supreme Court and vide order dated 7.2.2023 passed in *SLP (Crl.) No.1459 of 2023*, the applicant himself has made a statement that he would himself present before the trial Court and move for bail, but thereafter, another S.L.P bearing *SLP No. 7012 of 2023* was filed against the order of this Court dated 4.4.2023 and the same was also withdrawn by stating before Hon'ble Supreme Court that the applicant would take steps to comply with the judgment and order dated 7.2.2023 and without moving an application for bail as warranted by the order dated 07.02.2023, an application under Section 88 Cr.P.C. was moved before the trial Court, which has been rightly rejected by the Trial Court.

17. It is vehemently submitted that there is no illegality committed by the trial Court in rejecting the application moved by the applicant under Section 88 Cr.P.C. The applicant is not in a mood to appear before the Trial Court as directed by Hon'ble Supreme Court and is moving application after application for this purpose.

18. Reliance has been placed by Shri Anurag Kumar Singh, learned counsel appearing for CBI on the law laid down by Hon'ble Supreme Court in ***Pankaj Jain Vs. Union of India and Another (2018) 5 SCC 743*** specifically to para Nos. 25, 28, 30 and 34.

19. Having heard learned counsel for the parties and having perused the record, before proceeding further, at the outset, the submission of

learned Senior Counsel with regard to permitting the applicant to file bond under Section 88 Cr.P.C., with or without sureties is required to be addressed and so far as issue pertaining to furnishing bond under Section 88 Cr.P.C. is concerned, it would be useful to refer some relevant case laws on the subject wherein this issue has been deliberated by the Apex Court.

In ***Pankaj Jain vs. Union of India (UOI) and Ors., MANU/SC/6151/2018***, Hon'ble Supreme Court opined as under:-

"23. Section 88 of the Code of Criminal Procedure does not confer any right on any person, who is present in a Court. Discretionary power given to the Court is for the purpose and object of ensuring appearance of such person in that Court or to any other Court into which the case may be transferred for trial. Discretion given Under Section 1 to the Court does not confer any right on a person, who is present in the Court rather it is the power given to the Court to facilitate his appearance, which clearly indicates that use of word 'may' is discretionary and it is for the Court to exercise its discretion when situation so demands. It is further relevant to note that the word used in Section 88 "any person has to be given wide meaning, which may include persons, who are not even Accused in a case and appeared as witnesses.

*24. Learned Counsel for the Appellant has referred to two judgments of Delhi High Court, namely, **Court on Its own Motion v. Central Bureau of Investigation, MANU/DE/0026/2004: 109 (2003) Delhi Law Times 494**. In the above case, certain general directions were issued by the Court in context of Section 173 and 170 of Code of Criminal Procedure. The said case was not a case where issue which has fallen in the present case pertaining to Section 88 Code of Criminal Procedure was involved. The subsequent judgment of Delhi High Court in **Sanjay Chaturvedi v State, MANU/DE/4094/2006: 132 (2006) Delhi Law Times 692** was also a case where earlier judgment of Delhi High Court in Court on Its own Motion v. Central Bureau of Investigation (supra) was followed. The said case also does not in any manner adopted the interpretation of Section 88 as contended by the Appellant.*

25. Another judgment of Delhi High Court in Bail Application No. 508 of 2011 Sanjay Chandrax CILL. decided on 23.05.2011 supports the submission raised by learned Additional Solicitor General that power Under Section 88 Code of Criminal Procedure, the word 'may' used in Section 88 Code of Criminal Procedure is not mandatory and is a matter of judicial discretion. Paras 20, 21 and 22 of the judgment are to the following effect:

20. Learned Shri Ram Jethmalani and learned Shri K.TS. Tulsi, Sr. Advocates appearing for Accused Sanjoy Chandra, learned Shri Mukul Rohtagi, Sr. Advocate appearing for Accused Vinod Goenka, learned Shri Soli Sorabjee and learned Shri Ranjit

Kumar, Sr. Advocates appearing for Accused Goutam Doshi, learned Shri Rajiv Nayar, Sr. Advocate appearing for Accused Hari Nair and learned Shri Neeraj Kishan Kaul, Sr. Advocate appearing for Accused Surendra Pipara, at the outset, have contended that the order of learned Special Judge dated 20th April, 2011 rejecting the bail of the Petitioners is violative of the mandate of Section 88 Code of Criminal Procedure. It is contended that admittedly the Petitioners were neither arrested during investigation nor they were produced in custody along with the charge sheet as envisaged Under Section 170 Code of Criminal Procedure. Therefore, the trial court was supposed to release the Petitioners on bail by seeking bonds with or without sureties in view of Section 88 Code of Criminal Procedure. Thus, it is urged that on this count alone, the Petitioners are entitled to bail.

21. The interpretation sought to be given by the Petitioners is misconceived and based upon incorrect reading of Section 88 Code of Criminal Procedure, which is reproduced thus:

88. Power to take bond for appearance. When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such court, or any other court to which the case may be transferred for trial.

22. On reading of the above, it is obvious that Section 88 Code of Criminal Procedure empowers the court to seek bond for appearance from any person present in the court in exercise of its judicial discretion. The Section also provides that aforesaid power is not unrestricted and it can be exercised only against such persons for whose appearance or arrest Bail Applications No. 508/2011, 509/2011, 510/2011, 511/2011 & 512/2011 Page 21 of 34 the court is empowered to issue summons or warrants. The words used in the Section are "may require such person to execute a bond" and any person present in the court. The use of word "may" signifies that Section 88 Code of Criminal Procedure is not mandatory and it is a matter of judicial discretion of the court. The word "any person" signifies that the power of the court defined Under Section 88 Code of Criminal Procedure is not Accused specific only, but it can be exercised against other category of persons such as the witness whose presence the court may deem necessary for the purpose of inquiry or trial. Careful reading of Section 88 Code of Criminal Procedure makes it evident that it is a general provision defining the power of the court, but it does not provide how and in what manner this discretionary power is to be exercised. Petitioners are Accused of having committed non-bailable offences. Therefore, their case for bail falls within Section 437 of the Code of Criminal Procedure which is the specific provision dealing with grant of bail to an Accused in cases of non-bailable offences. Thus, on conjoint reading of Section 88

and 437 Code of Criminal Procedure, it is obvious that Section 88 Code of Criminal Procedure is not an independent Section and it is subject to Section 437 Code of Criminal Procedure Therefore, I do not find merit in the contention that order of learned Special Judge refusing bail to the Petitioners is illegal being violation of Section 88 Code of Criminal Procedure.

26. Another judgment which is relevant in this context is judgment of Patna High Court in **Dr. Anand Dea Singh v. The State of Bihar and Ors.**, MANU/BH/0648/2000:2000(2) Patna Law Journal Reports 686. The Patna High Court had occasion to consider Section 88 Code of Criminal Procedure where in Para 18, following has been held:

18. In my considered view, Section 88 of the Code is an enabling provision, which vests a discretion in the Magistrate to exercise power under said Section asking the person to execute a bond for appearance only in bailable cases or in trivial cases and it cannot be resorted to in a case of serious offences. Section 436 of the Code itself provides that bond may be asked for only in cases of bailable offences.

27. This Court had occasion to consider Section 91 of Code of Criminal Procedure 1898, which was akin to present Section 88 of 1973 Act, in **Madhu Limaye and Anr. v. Ved Murti and Ors.**, MANU/SC0147/1970: (1970) 3 SCC 739, following observations were made in context of Section 91:-

.....In fact Section 91 applies to a person who is present in Court and is free because it speaks of his being bound over, to appear on another day before the Court. That shows that the person must be a free agent whether to appear or not. If the person is already under arrest and in custody, as were the Petitioners, their appearance depended not on their own violation but on the violation of the person who had their custody. This Section was therefore inappropriate and the ruling cited in support of the case were wrongly decided as was held by the Special Bench.....

28. Another judgment relied by the Appellant is judgment of Punjab & Haryana High Court in **Arun Sharma v Union of India and Ors.**, MANU/PH/1447/2016: 2016 (3) RCR (Criminal) 883. In the above case, the Punjab & Haryana High Court was considering Section 88 Code of Criminal Procedure read with Section 65 of Prevention of Money Laundering Act. In the above context, following has been observed in Para 11:-

11. On the same principles, in absence of anything inconsistent in PMLA with Section 88 of Code of Criminal Procedure, when a person voluntarily appears before the Special Court for PMLA pursuant to issuance of process vide summons or warrant, and offers submission of bonds for further appearances before the Court, any consideration of his application for furnishing such bond, would be necessarily governed by Section 88 of the Code of Criminal Procedure read

with Section 65 of PMLA. Section 88 of the Code of Criminal Procedure reads as follows-

88. Power to take bond for appearance.--When any person for whose appearance or arrest the officer presiding in any Court is empowered to issue a summons or warrant, is present in such Court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such Court, or any other Court to which the case may be transferred for trial.

*This Section 88 (corresponding to Section 91 of Code of Criminal Procedure, 1898) would not apply qua a person whose appearance is not on his volition, but is brought in custody by the authorities as held by the Constitution Bench of the Hon'ble Supreme Court in **Madhu Limaye v Ved Murti MANU/SC/0147/1970: AIR 1971 SC 2481** wherein it was observed that-*

18. In fact Section 91 applies to a person who is present in Court and is free because it speaks of his being bound over, to appear on another day before the Court. That shows that the person must be a free agent whether to appear or not. If the person is already under arrest and in custody, as were the Petitioners, their appearance depended not on their own volition but on the volition of the person who had their custody.....

Thus, in a situation like this where the Accused were not arrested Under Section 19 of PMLA during investigations and were not produced in custody for taking cognizance, Section 88 of Code of Criminal Procedure shall apply upon appearance of the Accused person on his own volition before the Trial Court to furnish bonds for further appearances.

31. We thus conclude that the word may used in Section 88 confers a discretion on the Court whether to accept a bond from an Accused from a person appearing in the Court or not. The both Special Judge, C.B.I. as well as the High Court has given cogent reasons for not exercising the power Under Section 88 Code of Criminal Procedure We do not find any infirmity in the view taken by the Special Judge, CB.I. as well as the High Court in coming to the conclusion that Accused was not entitled to be released on acceptance of bond Under Section 88 Code of Criminal Procedure. We thus do not find any error in the impugned judgment of the High Court."

(Emphasis Mine)"

20. Thus, filing of bond under Section 88 Cr.P.C. for appearance with or without sureties is not the right of an accused person and it is a discretionary relief and the discretion is required to be exercised in an appropriate case on the basis of peculiar facts and circumstances of each

case in a judicious manner and no *straight jacket formula* for the same could be formulated.

21. Perusal of record would also reveal that applicant had earlier approached this Court by filing an application under Section 438 Cr.P.C., which was rejected on 15.12.2022 on merits and against this order, the applicant had filed an SLP before the Hon'ble Supreme Court, which was withdrawn after making some submissions and by making a statement before the Hon'ble Supreme Court that the applicant would present himself before the trial Court and move for bail and it is in this background, Hon'ble Supreme Court has passed the following order:-

*“After some hearing, learned senior counsel submitted that the petitioner would present himself before the Trial Court and **move for bail**. He also submitted that the observations in the impugned order should not adversely impact the consideration of the application. It is clarified that in the event the petitioner applied for bail, the Trial Court shall consider and pass orders as expeditiously as possible, uninfluenced by the orders of the Courts.”*

(emphasis mine)

22. Having regard to the fact that the anticipatory bail application of the applicant has been rejected by passing order dated 15.12.2022 by this Court, the reference of ‘*moving for bail*’ emerging in the order of the Hon’ble Supreme Court of date 7.2.2023 passed in SLP No.1459 of 2023 is clearly in reference to a bail application which may be moved either under Section 437/ 439 Cr.P.C. and may not be inferred for a bail application under Section 438 Cr.P.C i.e. Anticipatory bail application.

23. Even after passing of the order of Hon’ble Supreme Court of date 7.2.2023, the applicant did not move any regular bail application before the trial Court/ Special Court and filed another anticipatory bail application bearing No.797 of 2023 before this Court which was dismissed on 4.4.2023 with some strong observations. Then the applicant moved an intervention application before the Hon’ble Supreme Court in *Satendra Kumar Antil Vs. CBI*, which was also disposed of by Hon’ble

Supreme Court on 2.5.2023 with the liberty given to the applicant to file independent proceedings against the order dated 4.4.2023 passed by this Court and it is in this background, yet another *SLP (Crl.) No.7012 of 2023* was filed by the applicant before the Hon'ble Supreme Court and on account of a statement made by the counsel for the applicant before the Supreme Court to comply with the judgment and order dated 7.2.2023, the special leave petition was dismissed as withdrawn and it is thereafter, instead of filing any regular bail application in pursuance of the commitment made by the applicant before the Hon'ble Supreme Court, he, for the reasons best known to him, has chosen to file an application under Section 88 Cr.P.C. before the trial Court and in the considered opinion of this Court, the same has been rightly rejected. Moving an application before the trial Court under Section 88 Cr.P.C. is nothing but a desperate attempt of the applicant to get the relief indirectly which he did not get by moving two anticipatory bail applications before this Court and by filing two special leave petitions before the Hon'ble Supreme Court. When a statement has been made by his counsel before the Supreme Court on two occasions i.e. on 7.2.2023 and 16.6.2023 to move for bail, the applicant should have moved a regular bail application before the trial Court. Thus, the applicant, prima facie, appears to be misusing the process of law and exercising judicial restraint, this Court is not imposing any cost on the applicant. However, suffice is to observe that any other attempt by the applicant to bypass the normal course contrary to as promised by him before Hon'ble Supreme Court on 7.2.2023 and 16.6.2023, would be dealt with iron hands. Thus, for the reasons mentioned hereinbefore, the instant application moved under Section 482 Cr.P.C. appears to be without any force and **dismissed** as such.

24. In the last, learned Senior counsel submits that as all the co-accused persons of alleged crime has been granted bail or anticipatory

bail, the trial Court may kindly be directed to release the applicant on regular bail on the basis of principle of parity.

25. In the considered opinion of this Court, the discretion may be exercised in favour of a person, who is willing to participate in the process of adjudication. The applicant appears to have not complied the promise which was made by his counsel before the supreme Court twice and thus, in the considered opinion of this Court is not entitled for any discretion and no such direction may be issued having regard to the conduct of the applicant. However, it would always be open for the applicant to surrender/ appear before the trial court immediately in pursuance of the statement made by the applicant before the Hon'ble Supreme Court twice and in that eventuality it would always be open for the trial Court to act strictly in accordance with law.

Order Date :- 02.04.2024
Gurpreet Singh