

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

Crl.Misc.No.M-20754 of 2015(O&M)

Date of Decision : 27.07.2015

Malak Singh

....Petitioners

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr.Ranvir Singh Arya, Advocate for the petitioner

Mr. Anmol Malik, AAG, Haryana

MAHESH GROVER, J.

The petitioner prays for grant of pre-arrest bail in terms of Section 438 Cr.P.C in case FIR no. 575 dated 27.10.2014 registered under Section 15 of NDPS Act at Police Station Assandh District Karnal.

In fact this is the second petition under Section 438 Cr.P.C as the earlier petition was dismissed as withdrawn. The petitioner has pleaded that he was not found at the spot and the recovery was effected from an abandoned area with which he has no concern.

Learned counsel for the petitioner contends that the petitioner has now been declared a proclaimed offender since he had failed to submit himself to the process of law.

If that be so then this singular fact itself would disentitle him to the grant of benefit of pre-arrest bail, particularly, when the instant petition is the second bail application and he had chosen to withdraw the earlier one.

It would also show that the petitioner is aware of the proceedings against him. The relief under Section 438 Cr.P.C is intended to protect the people

from false implication. Possibly the Court would have evaluated the plea of the petitioner of false implication as he was not apprehended from the spot but it is the petitioner who had himself invited this situation by withdrawing his earlier petition for pre-arrest bail and then not submitting himself to the process of law. Consequently, there is no redeeming factor in favour of the petitioner so as to persuade this Court to grant concession of bail under Section 438 Cr.P.C, however, in case the petitioner surrenders himself before the Court of competent jurisdiction and makes a prayer for regular bail, the same shall be considered and decided by the said Court as expeditiously as possible but not later than two days from the date of moving such an application. While doing so, the Court below will keep in mind the fact of the petitioner not apprehended from the spot.

Disposed of.

July 27, 2015
rekha

(Mahesh Grover)
Judge