

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

**CRL. MISC. No.M-34297 OF 2016 (O&M)
DATE OF DECISION : 26th SEPTEMBER, 2016**

Lakhwinder Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Ms. Harmanpreet Kaur, Advocate for the petitioner.

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A. B. CHAUDHARI, J. (ORAL)

Notice of motion.

Ms. Rajni Gupta, Addl. A.G. Punjab accepts notice on behalf of the State.

Rule heard forthwith with consent of counsel for the rival parties.

This is a petition for grant of anticipatory bail to the petitioner in FIR No.156 dated 25.11.2012 registered under Sections 304-A, 279, 337 and 427 IPC at Police Station Sadar Kotkapura, District Faridkot.

The offences, under which the FIR is registered, are bailable offences and therefore, the question of grant of anticipatory bail in bailable offences would not arise. However, upon perusal of the entire record and upon hearing learned counsel for the petitioner, I find that the petitioner is actually aggrieved by order made by the trial Court vide which non-bailable warrant was issued against the petitioner for non-appearance on the appointed date and thus seeking his arrest.

Therefore, I grant leave to the petitioner to amend this petition by adding the prayer clause in order to challenge the impugned order dated 04.08.2016. The amendment be carried out within a week from today.

Upon hearing counsel for the petitioner, I find that the criminal case is pending against the petitioner with the lower court since 2012 for the offences which are bailable. The petitioner was also released on bail and continued as such. However, he remained absent on 13.02.2015 and again on 13.10.2015, as a result of which on both occasions non-bailable warrants were issued and in the first occasion the trial Court was pleased to recall the non-bailable warrants. However, the petitioner again made a mistake of not appearing on 13.10.2015. Reason for not appearing before the court was given that the brother of the petitioner was under treatment in the hospital. The petitioner also produced on record the death certificate of his brother but the trial Court refused to accept the same on the ground that what was required was the evidence regarding the treatment in the hospital.

In my opinion, the trial Court should have accepted the death certificate because ultimately the death certificate was placed on record in respect of the brother of the petitioner who was said to have been in the hospital, which statement has not been rebutted by the other side. Be that as it may, the trial court went wrong by making the order. All the offences are bailable, therefore, there is no point in taking the petitioner in custody as the trial will take its own time. All the more so, the learned counsel for the petitioner makes the statement that the

petitioner is ready to appear before the court hereinafter with promptitude and would not default in appearance.

Accepting the statement of learned counsel for the petitioner, I think the petitioner should be given one more chance to continue on bail as he was already granted bail by the trial Court.

In that view of the matter, I make the following order:

ORDER

- (i) Rule is made absolute.
- (ii) Impugned order dated 04.08.2016 (by amendment) is set aside.
- (iii) The petitioner is granted anticipatory bail in FIR No.156 dated 25.11.2012 on the same bail bonds furnished by him before the trial Court.
- (iv) The petitioner would continue to appear before the trial Court with promptitude till the completion of trial.

Disposed of accordingly.

26th SEPTEMBER, 2016
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No.