

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

**Criminal Misc.No.M-4114 of 2016 (O&M)  
Date of Decision : 12<sup>th</sup> December, 2016**

State of Punjab

..... Petitioner

Versus

Lal Singh

..... Respondent

**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI**

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Present : Ms. Amarjit Kaur Khurana, Addl. A.G., Punjab  
for the petitioner(s)-State.

Mr. Rahul Vats, Advocate  
for the respondent.

Mr. Navjot Singh, Advocate  
for the complainant.

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**AJAY TEWARI, J. (Oral)**

Petitioner-State has preferred this petition under Section 439  
(2) Cr.P.C. for cancellation of anticipatory bail granted to respondent by this  
Court vide order dated 24.06.2010 in case FIR No.74 dated 08.05.2010,  
registered at Police Station City Malout, District Sri Muktsar Sahib, under  
Sections 420, 465, 467, 468, 471, 120-B IPC.

Reply on behalf of respondent has been filed. Same is taken on  
record. Copy has been supplied.

Without going into the merits of the case, the facts are that this  
Court had granted anticipatory bail in the said FIR and the respondent had  
appeared before the the Investigating Officer who had released him on bail

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to his satisfaction. Thereafter, when the challan was presented, the respondent had surrendered before the learned trial Court and had been released on regular bail.

As per learned counsel for respondent, the order of anticipatory bail granted by this Court had come to its natural end when the respondent had surrendered before the learned trial Court and consequently, the order of this Court is no longer in existence and the only recourse for the prosecution is to move application under Section 437 (5) Cr.P.C. before the learned trial Court.

Learned State counsel as well as learned counsel for complainant are not in a position to controvert this argument. However, they have argued that the respondent and co-accused are accused in similar case FIR No.62 and on similar grounds, they had been granted anticipatory bail by this Court in that FIR also. In that case also they had ultimately surrendered before the learned trial Court and have been released on bail and in that very case the complainant had filed Criminal Misc.No.37739 of 2015 wherein a similar application had been moved under Section 439 (2) Cr.P.C. for the cancellation of earlier anticipatory bail granted by this Court and this Court vide order dated 06.01.2016 had cancelled that bail and ultimately that order was upheld by the Supreme Court.

Learned counsel for the respondent has argued that in the case of co-accused Salil Narain plea on the basis of Section 437 (5) was neither taken nor considered by this Court.

In my opinion, this argument has to prevail. The order dated

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06.01.2016 was passed without their being any plea about Section 437 (5) Cr.P.C. and, therefore, the fact that anticipatory bail was cancelled in that case would not affect the decision of this case.

In these circumstances, the present petition is dismissed with liberty to the prosecution to move appropriate application under Section 437 (5) Cr.P.C. before the learned trial Court.

**12<sup>th</sup> December, 2016**

*mamta*

**( AJAY TEWARI )  
JUDGE**

Whether speaking

Yes/No

*Whether Reportable*

*Yes/No*