

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

CRM No. M-45385 of 2016

Date of decision: 10.01.2017

Sombir

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Anil Kumar Saini, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Ritu Bahri, J.

This petition under Section 482 Cr.P.C., is for quashing of the order dated 20.10.2016 passed by the Additional Sessions Judge, Jhajjar (Annexure P-5), whereby application moved by the prosecution seeking arrest of the petitioner has been allowed.

A perusal of the impugned order (Annexure P-5) shows that without issuing any notice to the petitioner, the anticipatory bail granted to him vide order dated 09.09.2016 has been cancelled.

Learned State counsel has argued that now the petitioner is in custody and he can seek regular bail by moving an application before the appropriate Court.

This argument is liable to be rejected as Hon'ble the Supreme

Court in **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and**

others, 2011 (1) SCC 694, has considered a case of anticipatory bail granted under Section 438 Cr.P.C. in a trial under Section 302 IPC. While interpreting Article 21 of Constitution of India, Hon'ble the Supreme Court has laid down a guideline that personal liberty granted by way of anticipatory bail is to continue till the trial of the case. However, the prosecution can seek cancellation of the anticipatory bail, if the conditions of bail are flouted by the accused. For that purpose, due notice is required to be issued to the accused.

In the present case, no notice was given to the petitioner before cancellation of his anticipatory bail.

In view of the above discussion and the law laid down by Hon'ble the Supreme Court in Siddharam Satlingappa Mhetre's case (supra), the impugned order is liable to be set aside.

Accordingly, this petition is allowed and the impugned order dated 20.10.2016 passed by the Additional Sessions Judge, Jhajjar (Annexure P-5) is set aside. The petitioner is ordered to be released forthwith.

10.01.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No