

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

CRM-M-28922-2018

Date of Decision: 25.10.2018

Jagat Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. A.G.S. Dhillon, Advocate
for the petitioner.

Mr. Nikhil K. Chopra, Addl. A.G. Punjab.

P.B. BAJANTHRI J. (Oral)

In the instant petition, petitioner has sought for regular bail under the provision of Section 439 Cr.P.C in case FIR No.31 dated 27.05.2015 registered under Sections 22/61/85 NDPS Act at Police Station Sadar Rajpura Patiala.

2. Petitioner had the benefit of default bail under Section 167 (2) Cr.P.C on 26.11.2015. When the proceedings were in vogue on 6.9.2017, petitioner could not appear in the Court so also none represented on behalf of the petitioner. Consequently, Special Court proceeded to cancel the bail order dated 26.11.2015 so also bail bond/surety bonds stand cancelled and ordered to be forfeited to the State. Consequently, non-bailable warrants were issued for 10.10.2017. Thereafter, petitioner filed regular bail petition before Judge Special Court, Patiala, which was rejected on 28.5.2018. Hence, the present petition.

3. Learned counsel for the petitioner contended that on 6.9.2017, petitioner could not appear before the Court as he was arrested in another case on 6.9.2017. Therefore, remaining absent on 6.9.2017 was not intentional or to avoid any proceedings. This issue has not been apprised by the Judge Special Court in its order dated 28.5.2018 and considered

extraneous material.

4. Scope of bail application before the Judge Special Court is with reference to Annexure P-2 on account of remaining absent on 6.9.2017. Learned State counsel has not disputed with respect to the fact that petitioner was arrested on 6.9.2017 in another case.

5. Having regard to the aforesaid facts and circumstances, petitioner is entitled to regular bail in FIR No.31 dated 27.5.2015 pursuant to the bail granted under Section 167 (2) Cr.P.C dated 26.11.2015 as on the alleged day of absent i.e. On 6.9.2017 he was arrested in another case due to which he could not appear in Court on that day. Hence, without commenting on the merit of the case, petitioner-Jagat Singh is ordered to be released on bail to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

6. However, the petitioner shall not in any way indulge in any criminal activities and he shall also not influence the witnesses or otherwise interfere with the fair trial.

7. Petition is allowed accordingly.

25.10.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**