

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

**CRM-M-44803 of 2018
DATE OF DECISION:-31.10.2018**

RAJINDER SINGH

...PETITIONER...

V.

STATE OF PUNJAB

...RESPONDENT...

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. G.S. Punia, Sr. Advocate with
Ms. Harveden Kaur, Advocate,
for the petitioner.

Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 438 Cr.P.C. prayer has been made for grant of anticipatory bail to the petitioner in a case arising from FIR No.41 dated 20.05.2017, registered under Section 22 of the NDPS Act, 1985 at Police Station Sadar Sangrur, District Sangrur.

In nutshell earlier petitioner has filed CRM-M-43283 of 2017 for handing over the investigation arising out of aforesaid FIR to an independent agency, which is still pending adjudication. In the meantime, petitioner applied for anticipatory bail before Judge Special Court, Sangrur, which was granted to him, till the receipt of report of FSL, vide order dated 05.07.2017, subject to his furnishing bail bonds

in the sum of Rs.1,00,000/- with one surety in the like amount. On

23.01.2018, the police filed final report under Section 173 (2) Cr.P.C. against the petitioner and his accomplice. Since, on presentation of challan, the petitioner did not appear before the Judge Special Court, Sangrur, therefore, he was declared proclaimed offender on 07.03.2018. Moreover, on receipt of Forensic Science Report, the petitioner was required to surrender before the trial court and seek regular bail in terms of order dated 05.07.2017, but he did not surrender before the Judge Special Court, Sangrur. Therefore, his anticipatory bail application was dismissed vide order dated 25.09.2018. Instead of filing a petition for setting aside order dated 07.03.2018 declaring him proclaimed offender, petitioner has filed the instant petition for anticipatory bail.

Learned counsel for the petitioner contends that the petitioner was never informed about the filing of challan by the police against him in the court. Therefore, his non-surrender before the Special Court, Sangrur is unintentional. He further contends that order dated 07.03.2018 declaring him proclaimed offender is also illegal.

On the other hand Learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner for grant of anticipatory bail, submitting that since the petitioner has not complied with direction to surrender vide order dated 05.07.2017 of the Judge Special Court, Sangrur, therefore, the petitioner does not deserve any concession of bail.

Having given an anxious thought to the rival submissions

made by learned counsel for the parties, this Court does not find any merit in the instant petition being completely devoid of merit, for the simple reason that the petitioner in utter disregard to the order dated 05.07.2017 did not surrender before the trial court on receipt of FSL report. The plea of the petitioner that he was not aware or was never made aware about receipt of FSL report and presentation of final report under Section 173(2) Cr.P.C. is completely false inasmuch as, the petitioner must have been given notice before declaring him as proclaimed offender vide order 07.03.2018.

In view of the above, the petitioner is directed to surrender before the trial court within two weeks from today and his bail application, if any, shall be decided by the trial court within next 7 days on merit.

The observation made in this order shall have no bearing on the merits of the case while deciding the bail application of the petitioner.

Dismissed.

31.10.2018

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(RAMENDRA JAIN)
JUDGE

whether speaking/reasoned:

Yes/No

whether reportable:

Yes/No