

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

**CRM-M No.9502 of 2019
Date of Decision: 25.03.2019**

Arun Bhardwaj

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Sanjeev Manchanda, Advocate and
Mr. Sanjeev Sehgal, Advocate
for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

Ms. G.K. Mann, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Prayer is for grant of anticipatory bail in second attempt made by the petitioner before this Court.

[2]. Earlier CRM-M No.13107 of 2018 was filed by the petitioner before this Court which was dismissed vide order dated 17.04.2018 on merits. Petitioner remained unsuccessful in Special Leave to Appeal (Crl.) No(s).3875/2018 which was dismissed by the Hon'ble Apex Court vide order dated

09.05.2018, however liberty was granted to the petitioner to surrender and file regular bail before the competent Court. In the event of doing so, the same was ordered to be considered expeditiously by the trial Court in accordance with law. While dismissing the SLP, the Hon'ble Apex Court has not expressed any opinion on merits of the case. This Court while dismissing CRM-M No.13107 of 2018 on 17.04.2018 also did not express any opinion on merits of the case.

[3]. Petitioner instead of seeking regular bail before the trial Court, sought to take benefit of order dated 20.07.2018 passed by Judicial Magistrate First Class, SAS Nagar, Mohali which was passed on the application filed by SHO, Phase-1, Mohali even after transfer of investigation to State Crime Bureau. SHO, Phase-1, Mohali was not the Investigating Officer on 20.07.2018 as the investigation already stood transferred to Crime Branch on 29.05.2018. It is not understandable as to how the SHO filed an application before the Judicial Magistrate First Class, SAS Nagar, Mohali to show that presence of the petitioner was not required. It is true that the petitioner was joined in the investigation.

[4]. On the aforesaid premise, this Court vide order dated 07.03.2019 adjourned the case to enable the Investigating Officer of the case to file status report in respect of investigation.

In pursuance of aforesaid order, status report has been filed by way of affidavit of Assistant Inspector General of Police, State Crime, SAS Nagar, Mohali. In view of status report, custodial interrogation of the petitioner is required. Raid was conducted on the premises of the petitioner, but the petitioner was not found present on 04.12.2018. His wife was served with notice for facilitating the presence of the petitioner in the office of Investigating Officer. On 18.12.2018, warrants of arrest of the petitioner were sought from the Court. Even on 04.01.2019, police party was sent to arrest the petitioner, but in vain as the petitioner did not come to the Court in connection of some other case. On 17.01.2019, the premises of the petitioner was again raided, but the police party could not succeed. His wife did not make the petitioner available despite receiving notice by the police. A look out notice was also issued on 25.01.2019.

[5]. Special Leave to Appeal (Crl.) No(s).1346 of 2002 and other connected cases titled M.C. Abraham and another Vs. A.K. Dhote, J.F. Salve and another Vs. State of Maharashtra and others decided on 20.12.2002 by the Hon'ble Apex Court relied by the learned counsel for the petitioner is not applicable in the facts and circumstances of the case. The rigour of order dated 20.07.2018 passed by Judicial Magistrate First Class, SAS Nagar, Mohali would not apply in the present case

inasmuch as that SHO, Phase-1, Mohali was not competent to make that statement in view of transfer of investigation to Crime Branch on 29.05.2018. The filing of application by SHO, Phase-1, Mohali would not give any cause of action in favour of the petitioner for filing second petition for anticipatory bail, particularly in view of dismissal of first petition for anticipatory bail by this Court on 17.04.2018 and dismissal of SLP by the Hon'ble Apex Court on 09.05.2018 giving liberty to the petitioner to seek regular bail before competent Court in accordance with law.

[6]. In view of facts and attending circumstances of the case, there is no scope to entertain the plea for anticipatory bail on second occasion. Order dated 20.07.2018 passed by Judicial Magistrate First Class, SAS Nagar, Mohali would not give any cause of action in favour of the petitioner and the second petition for anticipatory bail is not maintainable. This criminal petition is accordingly dismissed.

25.03.2019

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No