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

CRM-M No.9673 of 2021

Date of Decision:17.08.2021

Ashok Kumar

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Ms. Sehej Sandhawala, Advocate
for the petitioner .

Mr. Amar Ashok Pathak, Addl AG Punjab.

RAJ MOHAN SINGH, J. (Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.04 dated 05.01.2010 registered under Sections 406, 420 and 120-B of IPC, at Police Station Chandni Bagh, Panipat, Haryana.

Initially there was some ambiguity with regard to name of the petitioner in the judgment of acquittal dated 01.07.2016 passed by the Judicial Magistrate First Class, Panipat vide which Ajmer Singh and Bablu were acquitted of the charges. On assessment of facts it was found that the petitioner was not the person who was acquitted vide the aforesaid order.

Perusal of the record would show that the prayer for anticipatory bail was earlier dismissed by the High Court vide order dated 09.07.2013 passed in CRM-M No.21552 of 2013. At that time, petitioner was a proclaimed offender being

declared as such vide order dated 13.03.2013. The said order was assailed by the petitioner in CRM-M No.13638 of 2013. The order, declaring the petitioner to be proclaimed offender was set aside vide order dated 05.08.2013 by the High Court.

Learned counsel for the petitioner submits that in view of changed circumstance, the second anticipatory bail is maintainable as the petitioner has not been declared as proclaimed offender on second occasion till date. The co-accused have already been acquitted by the Judicial Magistrate, First Class, vide judgment dated 01.07.2016.

On 04.08.2021, following order was passed by this Court:-

"The case has been taken up for hearing through video conferencing.

Learned counsel for the petitioner submits that the petitioner was once declared as proclaimed offender vide order dated 13.03.2013. The said order was assailed in CRM-M No.13638 of 2013 and the same was allowed, quashing the order dated 13.03.2013. Thereafter, the anticipatory bail of the petitioner was dismissed on 09.07.2013 in CRM-M No.21552 of 2013.

Learned counsel submits that second anticipatory bail is maintainable in view of changed circumstances, as the co-accused of the petitioner were acquitted vide order dated 01.07.2016 passed by Judicial Magistrate First Class, Panipat. Petitioner has not been declared as proclaimed offender on second occasion till date. The reply filed by the State is silent about status of the petitioner after quashing of order dated 13.03.2013.

Learned State counsel seeks short adjournment in order to have further instructions viz-a-viz the present status of the petitioner on record.

Adjourned to 16.08.2021."

The reply filed by way of affidavit of Sandeep Singh, HPS, Deputy Superintendent of Police, Traffic, Panipat on behalf of respondent-State is silent with regard to factum of declaring the petitioner as proclaimed offender on second occasion.

Learned State counsel has also admitted on the basis of affidavit of Sandeep Singh, HPS, Deputy Superintendent of Police, Traffic, Panipat, that the petitioner has not been declared as proclaimed offender on second occasion.

In view of aforesaid, keeping in view the acquittal of the co-accused I deem it appropriate to direct the petitioner to surrender before the trial Court within two weeks from today. On his appearance before the trial Court, he shall be released on bail to the satisfaction of the trial Court. Petitioner undertakes to face the trial in accordance with law. If the petitioner does not appear before the trial Court within the time prescribed and escapes any of the date, without leave of the Court, then the concession of bail shall be deemed to be withdrawn forthwith.

Petition stands disposed of.

17.08.2021

Amandeep

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No