

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

**CRM-M No.15162 of 2021
Date of Decision : 09.04.2021**

Jagjiwan Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Sukhdeep S. Bhinder, Advocate
for the Petitioner.

Mr. Harbir Sandhu, AAG, Punjab
for the Respondent/State.

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.141, dated 30.09.2020, registered under Sections 306 of the Indian Penal Code, at Police Station Joga, District Mansa.

2. The Petitioner's application under the same provisions of law was dismissed by the Ld. Additional Sessions Judge, Mansa on 24th March, 2021 vide the impugned order (Annexure P-5) after observing that the same had been presented without complying with the provisions of Section 439 of the Cr.P.C. inasmuch as the applicant was not in actual custody at the relevant time.

3. Background of the matter is that the Petitioner had filed an SLP (Crl.) No.1618 of 2021, which was subsequently dismissed as withdrawn with liberty to apply for Regular Bail within a period of four weeks from the

date i.e. 01.03.2021, and the Apex Court had also directed that he shall not be arrested till then.

4. In the Petition, the Petitioner has however not explained as to what was the order against which he had preferred his SLP in the Hon'ble Supreme Court. The position even now happens to be that the Petitioner is actually not in custody, and has approached this Court seeking his release on Regular Bail. Such a position is *ex facie* untenable. There is no question of releasing any person on Regular Bail (rather than Anticipatory Bail) under Section 439 of the Cr.P.C. until and unless he happens to be actually taken in custody.

5. This Court, therefore, finds no illegality or impropriety in the impugned order passed by the Ld. Additional Sessions Judge, Mansa.

6. Consequently, the present Petition is also dismissed.

April 09, 2021
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No