

209

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11860-2020

Date of Decision:06.09.2021

ASHWANI KUMAR

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr.Chetan Goyal , Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G, Punjab.

RAJ MOHAN SINGH, J. (Oral)

Petitioner seeks grant of anticipatory bail under Section 438 Cr.P.C in case bearing FIR No.64 dated 31.03.2016 registered under Sections 61/1/14 of Excise Act, at Police Station Kotwali, Patiala, District Patiala.

In pursuance of order dated 17.08.2021, a report dated 24.08.2021 of District and Sessions Judge, Patiala has been received. According to the aforesaid report, petitioner has not filed any fresh application under Section 438 Cr.P.C before Court of Sessions. Petitioner is still on bail in compliance of order dated 23.03.2021 passed by the High Court.

Statement of learned State counsel which finds mentioned in the order dated 17.08.2021 is refuted.

For ready reference report itself is reproduced hereasunder:-

"With due regards it is stated that in the

aforesaid Criminal Misc., the Hon'ble High Court had initially granted interim bail to the petitioner/accused Ashwani Kumar vide order dated 20.03.2020 whereby the petitioner/accused was directed to appear before the trial Court on 31.03.2020 and to furnish the bail bonds/surety bonds to the satisfaction of the trial Court. However the petitioner/accused did not comply with the said order. Vide order dated 23.3.2021, the Hon'ble High Court granted one more opportunity to the petitioner/accused to surrender before the trial Court within one week. In pursuance of the said order, the petitioner/accused surrendered before the learned Duty Magistrate, Patiala on 31.3.2021 and was released on interim bail on furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in like amount and the same were furnished by him on the same day. Copy of the order passed by the court of Sh. Randeep Kumar, the then Judicial Magistrate Ist Class, Patiala is enclosed herewith.

Therefore, it is made out that accused/applicant had availed the order dated 23.03.2021 passed by the Hon'ble High court in the aforesaid case and continues to be on bail in the said case. There was no necessity for him to move any fresh application u/s. 438 Cr.PC before the Court of Sessions nor any application has been moved by him. It seems that State counsel has committed some mistake at the time of making submission before the Hon'ble High Court. So far as the order dated 29.06.2021 passed by the Court of Sessions is concerned, the same is not judicial order rather the office of the undersigned had issued an order bearing no.4282 dated 29.06.2021 making provision for resumption of the judicial work in the cases of particular categories as mentioned therein. The

reference by the learned Judicial Magistrate Ist Class, Patiala, has been made to the aforesaid order dated 29.6.2021 in the zimni order recorded on 10.8.2021 in routine. Infact the accused/petitioner was already on bail at that time in pursuance of the interim order passed by the Hon'ble High Court.”

In view of aforesaid report, interim orders dated 20.03.2020 and 23.03.2021 are made absolute. Petitioner shall keep on joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands disposed of.

06.09.2021
Amandeep

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No