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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19350-2021

Date of Decision: 07.09.2021

Harwinder Kumar @ Bhima

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sahil Puri, Advocate for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

...

Manoj Bajaj, J. (Oral)

This petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.96 dated 07.10.2019 under Section 22 NDPS Act, 1985 registered at Police Station Sadar Phagwara, District Kapurthala.

During the course of hearing, it is not disputed by learned counsel that the petitioner was arrested on the spot and as the FSL report was not filed, he was granted interim regular bail under Section 439 Cr.P.C. by the trial Court vide order dated 06.11.2019 (Annexure P2). He fairly states that the FSL report has already been filed before the trial Court and now, he apprehends his arrest in the above FIR.

After hearing the learned counsel for the parties, this Court finds that as the petitioner was granted concession of interim regular bail, this petition under Section 438 Cr.P.C. would not be maintainable and in this regard, reference can be made to decision passed by this Court vide

order dated **04.04.2019 in CRM-M-15464-2019 titled as Balwant Singh @**

Banta Vs. State of Punjab. The relevant observations are as under:

“10. Turning to the facts of this case, it is absolutely clear from the order dated 08.1.2019 passed by the trial Court that the accused-petitioner had filed an application under Section 439 Cr.P.C., 1973 for grant of regular bail, who already stood arrested for the offence punishable under Section 22/61/85 of NDPS Act. The concession of interim regular bail was extended on 25.10.2018 on a specific ground i.e. the FSL report was awaited. The period of interim bail was also defined i.e. till filing of the FSL Report, which stood filed when the order dated 08.1.2019 was passed.

11. The petitioner was well aware of this condition and never disputed the same when the concession of interim regular bail was extended to him. It is apparent that upon filing of the FSL Report by the prosecution, the ground for bail ceases to exist and it was incumbent upon the petitioner accused to surrender himself before the Court on the said date. The FSL Report was filed before the trial Court and after examination of the same, the trial Court on 08.1.2019 proceeded to decide the regular bail application and dismissed the same in view of Section 37 of NDPS Act, 1985.”

Resultantly, the petition is dismissed.

07.09.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No