

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

105

**CRM-M-31405-2021
Date of decision : 06.08.2021**

Sanjiv Vig

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Prashant Vashisth, Advocate for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

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

The petitioner has filed present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.18 dated 20.05.2015 registered under Section 420 of the Indian Penal Code, 1860 in Police Station City Ahmedgarh, Sangrur.

The above-said FIR was registered on complaint of Kiranpal Singh who, inter alia, alleged that Sanjiv Vig (the petitioner) and his co-accused Ramesh Vig partners of firm M/s New Kissan Seed and Pesticides, Ludhiana had dishonestly sold inferior quality of paddy seed amounting to Rs.4,37,500/- to him. The farmers who purchased the said deeds from him suffered loss and he paid the compensation amount to those farmers. When he asked the accused persons, they made promise to return the amount to him but they did not pay the said amount and cheated him. Subsequent to his arrest during investigation, the petitioner was granted anticipatory bail vide order dated 08.02.2016 passed by learned Additional Sessions Judge, Sangur on the basis of compromise effected between the petitioner and the complainant. On filing of Challan under Section 173(2) of the Cr.P.C., the petitioner did not appear before the Trial Court despite issuance of summons, bailable warrant of arrest, non-bailable warrant of arrest and publication of proclamation against him. Accordingly, the petitioner was declared proclaimed person vide order dated 30.10.2017.

The petitioner has filed the present petition for grant of anticipatory bail expressing his apprehension of arrest for commission of non-bailable offence.

Notice of motion restricted to respondent No.1-State.

Pursuant to supply of advance copy, Mr. P.S. Walia, Asstt. AG, Punjab has appeared and accepted notice on behalf of respondent No.1-State.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has argued that the petitioner is ready to appear before the trial Court and abide by all terms and conditions to be imposed by the Court. The petitioner is not likely to abscond, tamper with evidence or intimidate the prosecution witnesses or to commit any other offence. Therefore, the petitioner may be granted anticipatory bail.

On the other hand, learned State Counsel has submitted that the petitioner absented and did not appear before the trial Court and thereby misused the concession of interim bail. The petitioner is in constructive custody of the Court and present petition for grant of anticipatory bail is not maintainable. Therefore, the petition may be dismissed.

In the present case the petitioner was granted interim anticipatory bail vide order dated 29.01.2016 and the same was made absolute vide order dated 08.02.2016 by Additional Sessions Judge, Sangrur. On his non-appearance the petitioner was declared proclaimed person vide order dated 30.10.2017. The petitioner was bound to appear before the Trial Court on the date fixed but the petitioner failed to do so and thereby misused the concession of bail.

In ***SLP (Criminal) No.5385 of 2020 titled as Manish Jain Vs. Haryana State Pollution Control Board decided on 20.11.2020*** Hon'ble Supreme Court, while holding that the petitioner whose bail was cancelled because of non-appearance was not entitled to seek anticipatory bail, observed as under :-

“A person released on bail is already in the constructive custody of law. If the law requires him to come back to

custody for specified reasons, we are afraid that an application for anticipatory bail apprehending arrest will not lie. There cannot be an apprehension of arrest by a person already in the constructive custody of the law. We, therefore, reject the prayer for anticipatory bail.”

In view of the above referred judicial precedent and facts and circumstances of the case, I am of the considered view that the petitioner does not deserve grant of anticipatory bail and the present petition for grant of anticipatory bail is liable to be as being not maintainable.

In view of the above discussion, the present petition is dismissed and the petitioner is directed to surrender before the Trial Court within one week.

Needless to observe that if on his surrender the petitioner files any application for grant of regular bail, the Trial Court shall dispose of the same expeditiously.

06.08.2021
Kothiyal

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No