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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34453-2021 (O&M)
Date of Decision: 09.09.2021

Gian Kaur

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Amardeep Singh Gill, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

This second petition has been filed by the petitioner under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.17 dated 24.01.2018 under Section 420 IPC, 1881 and Section 13 Punjab Prevention of Human Smuggling Act, 2012 registered at Police Station City Kapurthala, District Kapurthala. She apprehended her arrest at the hands of Police in the above said FIR.

During the course of hearing, it is not disputed by Mr. Gill, learned counsel that the first application for grant of pre arrest bail filed by the petitioner was declined by this Court on 17.10.2019 and subsequently, the petitioner was declared a proclaimed offender on 31.01.2020.

Learned counsel for the petitioner has argued that in CRM-M-17561-2021, the order dated 31.01.2020 was set aside by this Court and the petitioner was directed to surrender before the trial Court within a period of four weeks, subject to an order, if any for grant of anticipatory bail. The relevant part of the order reads as under:

“In view of the above discussion, the petition is allowed and impugned order dated 31.01.2020 passed by learned

Chief Judicial Magistrate, Kapurthala in case FIR No.17 dated 24.01.2018 registered under Section 420 of the IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 in Police Station City Kapurthala, District Kapurthala is quashed along with all consequential proceedings arising out of the same.

However, the petitioner is directed to surrender before the trial Court in case FIR No.17 dated 24.01.2018 registered under Section 420 of the IPC and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 in Police Station City Kapurthala, District Kapurthala within four weeks and on such surrender, subject to order, if any, for grant of anticipatory bail, the petitioner shall be liable to be remanded to police/judicial custody in view of stage of the case in accordance with law as the case may be. Needless to observed that on surrender the petitioner shall be entitled to apply to the trial Court for grant of regular bail and the trial Court shall be bound to dispose of the same expeditiously in accordance with law.”

A reading of the above clearly indicates that when the order dated 28.04.2021 was passed, no concession of anticipatory bail was available to the petitioner, as she was already a proclaimed offender. Concededly, as per the directions of this Court, the petitioner was given four weeks to surrender, however, she has not complied with the said direction. Besides, this second petition for grant of pre arrest bail is not based upon any new ground, therefore, this petition is not maintainable.

Consequently, no ground is made out for grant of pre arrest bail to the petitioner.

Dismissed.

09.09.2021

Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned

Yes No

Whether reportable

Yes No