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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50843-2021
Date of Decision:16.12.2021

Niranjan Lal

....Petitioner(s)

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Subhash Kumar, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in CRA No.307 of 2019, titled as Niranjan Lal Versus Balraj Kumar, pending in the Court of learned Additional District & Sessions Judge, Jalandhar.

The learned counsel for the petitioner has submitted that the petitioner was convicted by the learned Judicial Magistrate Ist Class, Jalandhar on 09.07.2019 under Section 138 of the Negotiable Instruments Act, 1881 vide Annexure P-2. Thereafter, he filed an appeal before the learned lower Appellate Court and was granted bail and he had furnished his bail bonds. However, the learned lower Appellate Court on 06.10.2021 cancelled his bail bond/surety bonds as the petitioner did not appear before

the Court. The learned lower Appellate Court had also observed that a perusal of the file would reveal that the appellant (Petitioner) is not appearing from last many dates. The learned counsel further submitted that the absence from the learned lower Appellate Court was unintentional and, therefore, he may be granted anticipatory bail.

On the other hand, Mr. Arun Kaundal, learned Deputy Advocate General, Punjab has stated that he has received advance copy of the present petition. He further submitted that since the petitioner has jumped the bail and the learned lower Appellate Court has cancelled his bail and bonds, the present petition for grant of anticipatory bail would not be maintainable and, therefore has prayed for the dismissal of the same.

I have heard the learned counsel for the parties.

The petitioner is the appellant before the learned lower Appellate Court did not appear on 06.10.2021 and it was observed by the Court below that he did not appear on the last many dates. The relevant order dated 06.10.2021 is reproduced as under:-

“ Today none has appeared on behalf of appellant. Perusal of the file reveals that appellant is not appearing from last many dates. This court is satisfied that absence of accused/appellant is intentional. As such his bail bond/surety bonds stands cancelled and forfeited to the State. His NBW be issued for 12.11.2021.”

The present petition has been filed seeking grant of anticipatory bail. The petitioner has jumped the bail and, therefore, a petition for grant of anticipatory bail would not be maintainable in view of the law laid by the Hon'ble Supreme Court in '**Manish Jain Versus Haryana State Pollution Control Board,' Criminal Appeal No.5385 of 2020**, decided on 20.11.2020.

The relevant operation of the same is reproduced 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.”

A perusal of the order dated 06.10.2021 would further show that it is not that the petitioner did not appear on 06.10.2021 only but in fact he was not appearing for the last many dates and, therefore, in view of the factual position as well as the law laid down by the Hon'ble Supreme Court, the present petition for anticipatory bail is not maintainable. Consequently, the same is hereby dismissed.

However, in case, the petitioner surrenders within a period of one week from today and seeks a regular bail and in the event of doing so, the learned lower Appellate Court shall decide the application within a week thereafter.

16.12.2021

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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