

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

106

CRM No.M-1838 of 2022

DATE OF DECISION:18.01.2022

Nitesh

... Petitioner

Versus

State of Haryana

... Respondent

(through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Arvinder Arora, Advocate for
for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General,
Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

Present petition has been filed under Section 438 Cr.P.C for the grant of anticipatory bail in respect of FIR No.64 dated 07.05.2020 under Section 12 POCSO Act and Sections 292, 509 IPC and 67-A of IT Act registered at Police Station Kalka, District Panchkula.

Learned counsel for the petitioner aruges that the petitioner was granted the concesssion of regular bail by the competent Court of Law on 17.06.2020. Learned counsel for the petitioner submits that thereafter the petitioner was regularly attending the proceedings. Learned counsel further submits that the case was fixed for hearing on 12.10.2021 and, thereafter adjourned to very next date on 13.10.2021 and on the said date, during the cross-examination of procecution witness, the Court work was suspended in between by the lawyers and there was confusion about the next date of hearing and due to the same, the petitioner could not appear on the next date of hearing i.e.

14.10.2021 and without providing an opportunity to explain his non-attendance on 14.10.2021, his bail was cancelled on the same date. Learned counsel submits that even the grant of anticipatory bail by the trial Court has also been declined thereafter.

Learned counsel for the petitioner submits that non-presence of the petitioner on 14.10.2021 was inadvertent and was not intentional and as the petitioner is ready to join the proceedings, the petitioner may kindly be extended the concesssion of anticipatory bail.

Learned counsel further submits that henceforth the petitioner will join the proceedings of the trial Court without fail unless and until granted exemption from appearance on prior given point of time.

Notice of motion.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel, on the other hand, submits that as the petitioner has violated the terms and conditions of bail and was absent on 14.10.2021 without any valid justification, the cancellation of the bail by the trial Court was perfectly valid and legal and rather than filing the present petition, the petitioner should have surrendered before the trial Court and then applied for the regular bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is not disputed that the petitioner had attended the Court proceedings on 12.10.2021 and 13.10.2021 and he was not present on

14.10.2021 and the explanation being given is that there was some confusion about the next date of hearing due to the suspension of Court work by lawyers. By giving a benefit of doubt to the petitioner, as a one time measure, he is given another opportunity to join the proceedings as the learned ocunsel for the petitioner has undertaken before this Court henceforth that he will attend the Court proceedings regularly without any fail unless and until granted exmption for the same at prior given point of time.

In case, the petitioner joins the proceedings within a period of next 10 days, the trial Court is directed to grant the petitioner the concesssion of anticipatory bail. If permissible, the earlier bonds and surety bonds though cancelled, can be revived, the said benefit be also extended to the petitioner on the date petitioner surrenders.

It is made clear that in case the petitioner does not surrender within a period of next ten days as undertaken by the learned counsel for the petitioner, this order shall not come to his rescue at all.

The present petition is allowed in above terms.

January 18, 2022

jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable : Yes / No