

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 2194 of 2022
Date of Decision: 19.1.2022**

Vinod Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Sachin Ohri, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. In FIR No. 173 of 24.7.2020, registered at Police Station Sujampur, District Pathankot, offences constituted under Section 61-1-14 of the Punjab Excise Act, 1914, are embodied.

2. The bail applicant-petitioner, had prior to the institution of the instant petition before this Court, moved an application before the learned Judge, Special Court, Pathankot. On the afore application, the learned Judge concerned, made an order of dismissal.

3. The learned counsel for the petitioner submits that the afore order has not been challenged. Consequently, the afore order acquires conclusivity.

4. The learned counsel for the petitioner further submits that, thereafter owing to certain directions, the bail applicant-petitioner was granted the facility of *ad interim* bail. He further submits that subsequently the investigating officer concerned, is proceeding to take coercive action against the bail applicant-petitioner. Therefore, he submits that the facility of anticipatory bail be granted to the bail applicant-petitioner.

the afore conclusive order, as made by the learned Special Court concerned, though the bail applicant-petitioner became granted the facility of ad interim bail, yet if the investigating officer concerned, is seeking to initiate coercive action against the bail applicant-petitioner, thereupon, unless the bail applicant-petitioner proceeds through recouring the appropriate remedies, in accordance with law, inasmuch as only after his, either seeking the setting aside of the order, as carried in Annexure P-2, or after his making, his surrender before the learned Magistrate concerned, or before the investigating officer concerned, his being facilitated to move this Court through a petition under Section 439 Cr.P.C. Necessarily, thereupto, the instant petition is not maintainable.

6. However, the instant petition as cast under Section 438 Cr.P.C., is, for the afore stated reasons, not maintainable, at this stage. Contrarily, it is maintainable at a stage subsequent to the bail applicant-petitioner either surrendering before the Magistrate concerned, or upon his being arrested by the investigating officer concerned.

7. Consequently, the instant petition is dismissed as not maintainable at this stage.

8. However, liberty is reserved to the petitioner to re-access the appropriate remedies, in accordance with law, and, at an appropriate stage.

9. In case, the petitioner after his arrest or surrender before the learned trial Court concerned, moves an application, for his being released on bail, thereupon, the learned Court concerned, shall in accordance with law, make an expeditious decision thereons.

(SURESHWAR THAKUR)
JUDGE

January 19, 2022
Gurpreet

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