

**101 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-No.2361 of 2022 (O&M)
DATE OF DECISION: 14.02.2022

Sukhwinder Singh @ ShinduPetitioner
versus
State of PunjabRespondent

CORAM:- HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Lakshay Bector, Advocate for the petitioner

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ALKA SARIN, J. (Oral):

Taken up in physical mode.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.88 dated 05.07.2018 under Sections 21, 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Islamabad, District Amritsar.

Learned counsel for the petitioner would contend that the petitioner in the present case was released on bail and had been appearing regularly before the Court. The petitioner, however, absented from the Court on 12.10.2021 and, as a result, the bail granted to him was cancelled and his bail bonds/surety bonds were forfeited to the State and he has been summoned through non-bailable warrant of arrest by the Judicial Magistrate 1st Class, Amritsar.

The Supreme Court in the case of ***Manish Jain Vs. Haryana State Pollution Control Board [SLP (Criminal) No.5385 of 2020 decided on 20.11.2020]*** has held 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 judgment passed by the Hon’ble Supreme Court, a petition seeking anticipatory bail pursuant to cancellation of regular bail is not maintainable.

Faced with the same, learned counsel for the petitioner seeks permission to withdraw the present petition as not pressed. The learned counsel, however, prays that in case the petitioner surrenders before the Trial Court/Duty Magistrate concerned within a week from today and seeks regular bail, the same be heard expeditiously.

In view of the above, the present petition is dismissed as not pressed. However, in case the petitioner surrenders before the Trial Court/Duty Magistrate concerned within a week from today and applies for regular bail, the same shall be heard and decided within a period of 10 days thereafter in accordance with law.

(ALKA SARIN)
JUDGE

14.02.2022
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NOTE: Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
