

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

**CRM-M-5683-2022(O&M)
Date of Decision: 10.02.2022.
(Heard through VC)**

Arif Saifi @ Mohamad Arif

...Petitioner

Versus

State of U. T. Chandigarh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Nikhil Kumar Vashisht, Advocate
for the petitioner.

Mr. D. S. Brar, APP, U.T. Chandigarh.

JAISHREE THAKUR, J. (Oral)

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.170 dated 25.08.2020 under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Industrial Area, Chandigarh.

Learned counsel for the petitioner submits that it is a case of bail jump as the petitioner was earlier granted the concession of regular bail by the Court, vide order dated 09.11.2020 (Annexure P1) and the petitioner was regularly appearing before the trial Court. It is submitted that pursuant to the regular bail the petitioner was put in appearance. It is submitted on account of COVID-19 pandemic in Bihar, the petitioner could not

return on account of his ill-health. An application for his exemption from personal appearance was filed, however, the same was rejected by the Court below. Resultantly, his bail bonds and surety bonds was cancelled and forfeited to the State by order dated 13.12.2021 and non-bailable warrants have been issued against the petitioner to secure his presence. Now the matter fixed before the trial court is for 29.04.2022. It is further stated by the learned counsel for the petitioner that absence of the petitioner before the trial Court was neither intentional nor willful. He is ready to appear before the Court and face the trial. It is further submits that the petitioner herein is willing to furnish his undertaking that he would put in an appearance before the trial Court on each and every date and in case default of the same, his bail bonds can be cancelled.

Notice of motion.

On the asking of this Court, Mr. D. S. Brar, APP, U.T. Chandigarh accepts notice on behalf of respondent-State and while opposing the prayer for grant of anticipatory bail to the petitioner, learned State counsel on instructions from SI Dilbag Poonia, submits that since the petitioner, after getting the concession of bail, has remained absent on two occasions and has unnecessarily delayed the trial and he does not deserves the concession of anticipatory bail.

I have heard the learned counsel for the parties and having perused the interim orders as passed.

The objective of the coercive mechanism prescribed under the

Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Admittedly, the petitioner herein was putting in appearance till such time as he could not do so but was able to move an application seeking his exemption from personal appearance which was allowed by the Court below on 08.10.2021 and then the matter was listed for 13.12.2021. On 13.12.2021 a similar application for exemption was again moved on behalf of the petitioner, which was declined and his bail bonds and surety bonds was cancelled and forfeited to the State.

Keeping in view the fact that the petitioner is willing to face the trial and is also willing to furnish his undertaking to the effect that he will be remained present on each and every date before the trial Court. The petitioner is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody. Without going into the merits of the case, the present petition is allowed and the petitioner is ordered to be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds within 15 days, to the satisfaction of the trial Court/Duty Magistrate.

In case, the petitioner fails to furnish the requisite bonds within

the stipulated period, the instant petition shall stand dismissed automatically.

10.02.2022

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(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No