

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

CRM-M-No.6435 of 2022 (O&M)
DATE OF DECISION: 15.02.2022

Harvinder Singh alias Happy

.....Petitioner

versus

State of Punjab

.....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. S.K. Choudhary, Advocate for the petitioner

ALKA SARIN, J. (Oral):

Heard in virtual mode.

This is a petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in as much as vide order dated 21.12.2021 passed by the Sessions Judge, Pathankot the bail bonds/surety bonds of the petitioner were ordered to be cancelled in FIR No.25 dated 27.03.2020 under Sections 307, 188, 34 of the Indian Penal Code, 1860 (45 of 1860) and Section 25 of the Arms Act, 1959 registered at Police Station Shahpurkandi, District Pathankot.

Learned counsel for the petitioner would contend that the petitioner had been granted bail vide order dated 12.01.2021 passed by this

Court in CRM-M-36668-2020 and thereafter he had been appearing regularly before the Court. However, he could not appear on 29.11.2021. Vide order dated 21.12.2021 passed by the Sessions Judge, Pathankot, his bail bonds were cancelled as he absented himself on 29.11.2021 as well as on 21.12.2021. The learned counsel further contends that the petitioner's absence from the Court was due to the reason that there was a false case lodged against him and he had filed a petition for grant of anticipatory bail which was pending before this Court.

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/Additional Sessions Judge (Duty) 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/Additional Sessions Judge (Duty) 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

15.02.2022
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<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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