

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

CRM-M-8288 of 2022

DECIDED ON: 25th February, 2022

Prabhdyal Singh

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Ashok Giri, Advocate for petitioner.
Mr. Sandeep Kumar, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

Due to COVID-19 situation, the Court is convened through video conference.

This petition under Section 438 Cr.P.C. is filed seeking anticipatory bail in case of FIR No.229 dated 9.10.2020 under Sections 420, 379-B, 411, 465, 467, 468, 471, 120-B IPC, 1860 registered at Police Station Kartarpur, District Jalandhar.

The petitioner was granted bail by Additional Sessions Judge, Jalandhar on 4.12.2020. On 29.10.2021, the petitioner absented, his bail bonds and surety bonds were forfeited and cancelled. It was ordered that warrants of arrest be issued for 17.1.2021, notices were also issued to surety. Petitioner was issued notice to show cause why his bail order is not cancelled.

On 17.1.2022, due to restricted working, the petitioner did not appear in the trial Court and fresh non-bailable warrants were issued.

Learned counsel for petitioner submits that only bail bonds and surety bonds have been cancelled, bail was not cancelled.

On a specific query to learned counsel for the petitioner with regard to maintainability of the petition, in view of decision of the Supreme Court in ***Manish Jain Vs. Haryana State Pollution Control Board, 2021(1)***

AICLR 416, he submits that issuance of non-bailable warrants in itself are good enough for invoking jurisdiction under Section 438 Cr.P.C.

The Supreme Court in *Manish Jain's case (supra)* held that person released on bail is in constructive custody of law, if law requires him to come back to custody, application for anticipatory bail apprehending arrest would not lie.

Petitioner absented himself, giving of an opportunity to show as to why his bail be not cancelled, will not change the position that he continues to be in constructive custody.

The petition is dismissed
as not maintainable.

(AVNEESH JHINGAN)
JUDGE

25th February, 2022
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>