

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

**CRM-M-16199-2022 (O&M)
Date of decision: 21.04.2022**

Asha Rani and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Ms. Amarinder Kaur, Advocate for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Through the present petition, the petitioners seek anticipatory bail in case bearing FIR No. 59 dated 09.4.2019, registered under Section 21 of the NDPS Act, at Police Station City Kotkapura, District Faridkot.

Learned counsel for the petitioners contends that the petitioners are husband and wife; that the petitioners were released on bail in the aforementioned FIR and thereafter, they have been regularly appearing before the trial Court, but somehow they could not appear before it on 29.10.2021, as petitioner No. 2 was suffering from viral fever and petitioner No. 1 being wife has to look after petitioner No. 2, following which their bail was cancelled and bail bonds and surety bonds were forfeited to the State and non-bailable warrants had been issued against them; that absence of the petitioners was not intentional and rather it was due to ill-health of petitioner No. 2; that till date, the proclamation proceedings have not been initiated against them, and that the petitioners are now ready to appear before the trial Court.

Notice of motion.

On the asking of this Court, Mr. Ajay Pal Singh Gill, DAG, Punjab, accepts notice on behalf of the respondent-State and opposes the submissions made by the learned counsel for the petitioner.

I have heard the learned counsel for the parties.

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. The absence of the petitioners before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

The petitioners absented themselves from the court proceedings on 29.10.2021. They are now not required for any investigation or interrogation purposes and rather, they are only to face the trial. Therefore, no useful purpose would be served by sending the petitioners to the custody.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioners to surrender before the trial Court/Duty Magistrate, within 10 days from today, subject to them depositing the costs of Rs.10,000/- with the District Legal Services Authority, Faridkot. On their doing so, the petitioners shall be released on anticipatory bail, subject to them furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

21.04.2022

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No