

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

CRR No. 1036 of 2022

Date of Decision: 19.05.2022

Gurdeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Arvind Thakur, Advocate
for the petitioner.

Mr. Harpreet S. Multani, Assistant Advocate General, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. When the trial Magistrate concerned, entered upon trial qua FIR No. 05 of 25.11.2010 (Annexure P-5), registered at Police Station NRI Hoshiarpur, District Hoshiarpur, he made an effort to secure the personal appearance(s), before him, of the present petitioner, through various processes becoming issued, upon him. However, all the relevant processes were unyielding, leading the learned trial Judge concerned, to declare him a proclaimed offender.

2. The above order, as, made on 11.02.2015, becomes challenged, before this Court, through a petition bearing CRM-M-9559-2022, and, thereons, this Court had proceeded to annulled the above made order, by the learned trial Magistrate concerned. However, the above order was made subject to the hereinafter extracted condition.

“ The petitioner shall forthwith surrender before the learned Magistrate concerned, whereupon the latter shall make orders in accordance with law. NBWs if issued, be recalled forthwith, and, if not issued, be not issued. However, the presence of the petitioner before the learned Magistrate

concerned, be ensured to be made through initially summons being personally served upon him.”

3. Though, in compliance of the afore, it obviously became incumbent, upon, the present petitioner to make his surrender, before the learned trial Magistrate concerned, however, he did not do so, rather he moved an application under Section 438 of the Cr.P.C., seeking an order for his being admitted to anticipatory bail. However, the above claimed relief became denied to him, leading the petitioner to make a challenge to the appositely made order of 19.04.2022.

4. Irrespective of the fact, that the present petitioner was to make his surrender, before the learned trial Judge concerned, for his facing the relevant proceedings, but there could not be any denial of his right to, seek relief qua his being enlarged on anticipatory bail, and, also it became incumbent upon the learned Court concerned, to upon, the apposite application, make reasons, either qua or against the accused, from the relevant material appertaining to, whether any prima facie case, rather necessarily spurring against the petitioner, and, as, embodied in the petition FIR, and, also to, after determining besides to draw a conclusion qua whether there is any likelihood of his fleeing from justice or tampering with prosecution evidence / witnesses, besides to also determine whether there is any re-likelihood of his absconding from India. However, the learned trial Judge concerned, has failed to exercise the above jurisdiction, and rather has merely upon making in paragraph-6 of it order, extractions of the order made by this Court, in the above petition, proceeded to dismiss the bail application cast, under Section 438 of the Cr.P.C. to be not maintainable.

5. The learned trial Judge concerned is directed to re-register bail application bearing CIS No. BA/711/2022, and, to within two weeks hereafter, render a decision thereon, but only after bearing in mind all the relevant parameters. Till the filing of the above application, and, till a decision is made thereons, the learned trial Magistrate concerned, may not draw any coercive processes against the petitioner.

6. Disposed of.

May 19, 2022

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**(SURESHWAR THAKUR)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>