

103

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

CRM-M-20845-2022
Date of decision : 16.05.2022

Ajay Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Naveen Sharma, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.86 dated 02.03.2018 registered under Section 61 of the Punjab Excise Act, 1914, at Police Station Daba, District Ludhiana.

A perusal of the record would show that the petitioner had absented himself from the trial Court on 25.09.2018 and his bail bonds were cancelled and forfeited to the State and non-bailable warrants were ordered to be issued and ultimately, on 15.01.2019, he was declared as proclaimed person. The petitioner had thereafter applied for anticipatory bail which was dismissed on 02.04.2019 but even thereafter, the petitioner did not join the trial for almost three years and was absconding. Neither the petitioner has challenged the said orders nor there is any reasonable explanation as to why the petitioner after having initially granted bail had repeatedly being absent and even after having applied for anticipatory bail which was dismissed on 02.04.2019 did not join the proceedings for a period of 3 years. In addition to

the fact that the petitioner does not have any case on merits, even the present petition for anticipatory bail is not maintainable in view of law laid down by the Hon'ble Supreme Court in **Manish Jain Vs. Haryana State Pollution Control Board**, reported as **2020 SCC Online SC 1101**, the relevant portion of the same is reproduced hereinbelow:-

“1. The petitioner was granted regular bail in a prosecution under Section 15 of the Environment Protection Act, 1986. Suffice it is to observe that the bail then came to be cancelled because of non-appearance. Proceedings under Section 174A IPC ensued leading to his arrest pursuant to which he was released on bail. The petitioner now seeks anticipatory bail pursuant to the cancellation of the regular bail granted to him under Section 15 of the Act.

2. 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.”

Accordingly, the present petition is dismissed.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

16.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No