

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

102)

CRM-M-46356-2021 (O&M)

Date of Decision: 19.01.2022

Bobby Kumar

.....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. R.S.Sohi, Advocate for
Ms. Pooja, Advocate,
for the petitioner.

Amol Rattan Singh, J. (Oral)

Case heard *via* video conferencing.

On 03.11.2021, the following order had been passed by this court:-

“Case heard via video conferencing.

By this petition, the petitioner seeks the concession of anticipatory bail, upon FIR no.2, dated 2.1.2018, having been registered at Police Station Sadar, Patiala, alleging therein the commission of offences punishable under Sections 25/54/59 of the Arms Act, 1959.

Learned counsel for the petitioner submits that the petitioner could not appear before the trial court after he was admitted to bail by that court as he was arrested in another matter.

He would placed on record any material to show that the petitioner was so arrested at the relevant time.

Adjourned sine die.

To be put up as and when an application seeking to place on record any such material is filed.”

Today, CRM-44756-2021, has been filed seeking to place on record a copy of FIR no.0023, dated June 30, 2019, registered at Police Station GRP, Patiala, alleging therein the commission of offences punishable under the provisions of Section 307 of the IPC and Section 25 of the Arms Act, 1959.

The petitioner is shown to be one of the accused in that case.

Vide the same application, the petitioner also seeks to place on record the order dated 24.09.2019, passed by the learned Additional Sessions Judge, Patiala, in the context of that case, admitting him to bail.

Though he also seeks to place on record vide this application an order of this court, dated 23.11.2021, passed in the present petition obviously that is wholly superfluous.

Consequently, with no notice of motion having been issued in the accompanying petition, this application is allowed subject to all just exceptions and the copy of the aforesaid FIR as also the aforesaid order dated 24.09.2019, are ordered to be taken on record as Annexures P-5 and P-6 respectively, with the accompanying petition.

Learned counsel for the petitioner points to the aforesaid order dated 24.09.2019 and thereafter the orders passed by the trial court in the context of the FIR in question presently, between 07.05.2019 to 26.09.2019.

A perusal of those orders shows that after the petitioner had been ordered to be admitted to bail vide the order dated 24.09.2019, in the context of other FIR, he was also ordered to be admitted to bail in the context of the present FIR on 18.02.2019, upon furnishing surety bonds, he already having furnished his personal bonds on that date itself.

Thereafter, on 07.05.2019 and 12.07.2019, the petitioners' personal appearance was exempted by the trial court with learned counsel submitting before this court that he had sought exemption as he could not arrange for the surety as had been directed to be furnished on 18.02.2019.

Subsequently, on 14.08.2019, the petitioner did not come present before the trial court and with him also not present on 26.09.2019, the bail order had been cancelled/recalled by the learned JMIC, Patiala, with it also recorded in that order that the petitioner had not appeared before that court despite even notice having been issued to him.

Thereafter, on 20.09.2021, i.e. almost one year after the petitioners' bail bonds were cancelled, he applied for anticipatory bail under Section 438 of the Cr.P.C. before the Additional Sessions Judge, which application was also dismissed, with the following observations made:-

“Heard. Trial Court file has been perused. Accused/applicant absented from the proceedings of the court way back in year 2019 and thereafter did not try to surrender. The ground taken by the applicant is that Covid time was started which is certainly fake ground taken by him as Covid time has started from March 2020 which shows that absence was intentional just to delay the proceedings of the trial. So, I do not see any justification to grant anticipatory bail, hence, same is dismissed. Record of learned trial court be sent back alongwith copy of this order, whereas bail application file be consigned to the record room.”

Learned counsel for the petitioner submits that as a matter of fact on 07.05.2019 the petitioner did not appear before the trial court as he could

not furnish the surety required to be furnished, due to which he sought exemption from personal appearance and was granted such exemption and thereafter, he was in custody in the context of FIR no.0023 from June 30, 2019 to September 24, 2019, after which he could not appear due to the Covid-19 pandemic.

Having considered the matter, what is first to be noticed that after the petitioner was released from jail pursuant to the order dated 24.09.2019, the Covid-19 pandemic did not set in till the last week of March, 2019, i.e. for a period of 6 months; and consequently, with the petitioner not having appeared before the trial court even then, and eventually having applied for anticipatory bail in September, 2021, with courts at least functioning *qua* consideration on bail applications etc., from June, 2020, itself, I would find no ground to entertain this petition, seeking that the petitioner be admitted to anticipatory bail, in the aforesaid circumstances.

Consequently, the petition is dismissed.

However, all observations made in this court are wholly in the context of a petition filed under Section 438 of the Cr.P.C. and if, upon being arrested, the petitioner applies for bail under the provisions of Section 439 Cr.P.C., that application, would be considered wholly on its own merits.

January 19, 2022

dharamvir

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking : Yes
Whether reportable: No