

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

CRM-M-52248-2022
Date of decision: 14.11.2022

Kulbir Singh

...Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Balbir Singh Jaswal, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in case bearing No.CRA-703-2019 titled as 'Kulbir Singh Vs. Avtar Singh', now pending for 21.11.2022 in the Court of learned Addl. Sessions Judge, Amritsar.

Learned counsel for the petitioner contends that vide judgment of conviction and order of sentence dated 28.11.2019 passed by learned SDJM, Baba Bakala Sahib, the petitioner was convicted and sentenced for a period of one year under Section 138 N.I.Act; that vide order dated 20.12.2019 passed by learned Addl. Sessions Judge, Amritsar, sentence awarded to the petitioner was suspended; that the petitioner had been regularly appearing before the Appellate Court; that however on 25.05.2022, the petitioner could not appear before the Appellate Court due to some unavoidable circumstances, following which his bail was cancelled and warrant of arrest had been issued against him; that till date, the

petitioner has not been declared a proclaimed offender; that the petitioner is now ready to appear before the Appellate Court, and that the matter has been compromised between the parties.

Notice of motion.

On the asking of this Court, Mr. IPS Sabharwal, DAG Punjab, accepts notice on behalf of respondent No.1-State, and submits that the Appellate Court has rightly issued warrant of arrest against the petitioner.

At this stage, Mr. Karan Dhawan, Advocate, puts in appearance on behalf of respondent No.2 and does not dispute the factum of compromise effected between the parties. He also submits that he has no objection, if the present petition is allowed.

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 petitioner 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 petitioner absented himself from the court proceedings on 25.05.2022. He is now not required for any investigation or interrogation purposes and rather, he is only to appear before the Appellate Court. Therefore, no useful purpose would be served by sending the petitioner to 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 petitioner to surrender before the Appellate Court/Duty

Magistrate, within 15 days from today, subject to him depositing the costs of Rs.15,000/- with the District Legal Services Authority, Amritsar. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the Appellate Court/Duty Magistrate.

14.11.2022
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No