

CRM-M-63492-2023

2023:PHHC:161711

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-63492-2023

Date of Decision : December 16, 2023

JARNAIL SINGH BAJWA

.....Petitioner

VERSUS

STATE OF PUNJAB AND ANR.

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Bipin Ghai, Sr. Advocate assisted by
Mr. Paras Talwar, Advocate
for the petitioner.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition filed under Section 438 Cr.P.C., prayer is made for grant of anticipatory bail to the petitioner in a complaint case No.73 dated 9.11.2017, under Sections 406, 420, 120-B of IPC, titled as “Cdr Kuldeep Mittal Vs. J.S.Bajwa and others”.

2. The petitioner has been summoned way back to face trial in a complaint (supra) vide order dated 14.11.2018. Thereupon in pursuance of the summoning order, the petitioner having apprehension of being arrest filed anticipatory bail which was allowed and he was extended the benefit of pre-arrest bail vide order dated 2.11.2020 (Annexure P-3), by the learned Additional Sessions Judge, Mohali. Thereupon, the petitioner continued to cause appearance, however, subsequently because of the reason of his absence from the trial, he was declared as a proclaimed person vide order dated 4.7.2022 (Annexure P-6). Again having

apprehension of being arrest, the petitioner approached this Court challenging the order of declaring him proclaimed person vide order (supra) by way of filing CRM-M-50259-2022 (Annexure P-8).

3. This Court, on an assertion made by the petitioner in para No.6 of the aforesaid petition that the other co-accused, who had faced the trial, had already been acquitted, this Court granted the liberty to the petitioner to approach the learned trial Court concerned, and surrender before it by 15.11.2022, and with a direction to the Court concerned to release the petitioner on the same day subject to his furnishing bail bonds to the satisfaction of the Court concerned.

4. Thereafter the petitioner did cause appearance in compliance of the order (supra). Thereafter complainant Kuldeepak Mittal approached this Court by way of filing CRM-M-42983-2023 under Section 439(2) Cr.P.C. for seeking cancellation of bail granted to the petitioner with the averment that the order dated 31.10.2022 has been procured on a false averment. The above petition was allowed vide order dated 20.10.2023 and the order dated 31.10.2022 was recalled. The relevant extract of the above order reads as under:-

“Thus, in the entirety of facts and circumstances, present petition filed by the complainant, is disposed of and order dated 31.10.2022 which was on erroneous facts/submission, stands recalled. Protection granted to respondent No.2 vide order dated 31.10.2022 passed in CRM-M-50259-2022, is set aside. It is clarified that it shall be permissible for respondent No.2 to file regular bail under 439 CrPC and he shall also arraign the

petitioner as respondent No.2 in that petition. It is clarified that at the time of adjudicating the said petition, observations made in this order shall not come in the way. No coercive steps be taken against respondent No.2 till 20.11.2023, to enable him to avail his legal remedies.”

5. The petitioner instead of making compliance to the directions whereby, he was directed to appear before the learned trial Court concerned and to seek regular bail, had filed anticipatory bail application before the learned Sessions Court and he remained unsuccessful as the asked for relief was declined vide order dated 4.12.2023.

6. Having aggrieved, the petitioner has moved this Court invoking the powers under Section 438 Cr.P.C. for the grant of pre-arrest bail by way of the present petition.

7. Be that as it may, the earlier similar relief, which was granted to the petitioner vide order dated 31.10.2022, was ordered to be recalled by this Court vide order dated 20.10.2023, the petitioner was specifically directed to surrender and seek regular bail. The petitioner has invoked the powers under Section 438 Cr.P.C. on being apprehended to be arrested. This Court does not find any reason to interfere and grant the asked for relief, for the reason that the petitioner has neither assailed the order passed by this Court on 20.10.2023 (Annexure P-10), whereas, in order to circumvent the directions issued by this Court, this mechanism has been adopted, which needs to be deprecated by this Court, therefore, one last opportunity is granted to the petitioner to surrender before the

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learned trial Court concerned within 15 days from today and to seek regular bail in compliance of directions issued vide order dated 20.10.2023 (supra).

8. In view of the above, the instant petition is, hereby, dismissed.

December 16, 2023
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No