

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

107

CRM-M-23650-2024

Date of Decision : May 10, 2024

HIMANSHU

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Vikram Singh Chauhan, Advocate
for the petitioner.

Mr. Bhupender Singh, D.A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in case FIR No.174 dated 12.04.2024, under Section 61 of The Punjab Excise Act, 1914, (Haryana Amendment Bill, 2020), registered at P.S. City Narnaul, District Mahendergarh.

2. What emerges from scrutiny of the record available before this Court, is that, the petitioner had earlier accessed the learned Additional Sessions Judge, Narnaul, through filing an anticipatory bail application, however, he remained unsuccessful, inasmuch as, he was declined the craved for relief, merely for want of prosecution. Since the Members of the Bar Association concerned were abstaining from work, on 25.04.2024, therefore, owing to the petitioner remaining unrepresented on that day, the learned Additional Sessions Judge concerned passed the

order dated 25.04.2024, thus dismissing the anticipatory bail application (supra), for want of prosecution.

3. This Court is of the considered opinion that, the learned Additional Sessions Judge concerned ought to have, instead of declining anticipatory bail to the petitioner merely for want of prosecution, made a decision on merits of the said bail application. Moreover, it is well settled proposition of law that, owing to fault of counsel, a party to litigation cannot be made to suffer, and that, the rights of the parties should be decided on merit as far as possible.

4. Consequently, the order dated 25.04.2024 is hereby set aside and the learned Additional Sessions Judge concerned is directed to, after restoring the anticipatory bail application filed by the petitioner to its original number, make a decision on merits thereon, after hearing all concerned. It is expected that the restored application would be decided within 10 days from today. The arrest of the petitioner shall remain stayed for the next 10 days.

5. Disposed of accordingly.

May 10, 2024
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(KULDEEP TIWARI)
JUDGE

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