

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

CRM-M-56058-2023

Reserved on: 20.02.2024

Pronounced on: 22.02.2024

2024:PHHC: 025154

UNION TERRITORY OF CHANDIGARH

. . . . PETITIONER

Vs.

ANUPAM GUPTA

. . . . RESPONDENT

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Charanjit Singh Bakshi, Addl. Public Prosecutor
for Union Territory, Chandigarh.

DEEPAK GUPTA, J.

By way of this petition filed under Section 439(2) CrPC, petitioner-Union Territory of Chandigarh through its Deputy Superintendent of Police, Economic Offences Wing, UT Chandigarh seeks cancellation of anticipatory bail granted to the respondent vide order dated 12.09.2022 (Annexure P6) in FIR No.25 dated 04.02.2022 (Annexure P1) under Sections 420, 467, 468, 471 & 120B IPC registered at Police Station 34, Chandigarh.

2.1 FIR in question (Annexure P1) was registered against respondent and others regarding defrauding the complainant to the tune of ₹84,00,000/- on the pretext of allotment of a showroom in the project floated by the respondent-co-accused. Vide an order dated 22.02.2022 (Annexure P2), Id. Additional Sessions Judge, Chandigarh granted interim anticipatory bail to the respondent subject to the condition that he shall join the investigation and will not make any inducement, threat or promise to any person acquainted with the case, directly or indirectly nor shall leave India without prior permission of the Court.

2.2 After getting report from the concerned public prosecutor that petitioner had joined the investigation, the order dated 22.02.2022 was made absolute by Id. ASJ, Chandigarh vide order dated 28.02.2022 (Annexure P3).

3. Ld. counsel for the petitioner contends that order dated 28.02.2022 (Annexure P3) was subject to the condition that petitioner shall cause his appearance before the Investigating Officer as and when called by him and shall further abide by all the other conditions of bail as mentioned in Section 438(2) CrPC. Though respondent had initially joined the investigation in compliance of the order dated 22.02.2022 and on that basis, the order was made absolute, but later on respondent was called on several dates for joining the investigation, but he did not cooperate. Various notices for appearance dated 19.05.2022, 24.05.2022 and 01.06.2022 were sent to the respondent to join the investigation, but he was found to be not available at the given address.

4. It is further submitted by Id. State counsel that respondent is a habitual offender and as many as 14 FIRs have been registered against him as per the details given in para No.9 of the petition and that in all those cases, the anticipatory bail applied by the respondent, has been declined by the Court vide order dated 01.06.2023. Petitioner further submits that an application for cancellation of anticipatory bail was moved before the Id. Additional Sessions Judge, Chandigarh, but the same was rejected on 12.09.2022. After referring to Section 438 CrPC and that respondent is not cooperating in the investigation, prayer is made for cancellation of the bail granted to him.

5. Notice of the petitioner was issued to the respondent. He was duly served through his father, which was held to be a valid service in the eyes of law. However, no representation was made on behalf of the respondent.

6. Ld. State counsel appearing for the petitioner also informed the Court that respondent has since been declared proclaimed offender in various other cases.
7. As will be evident from the order dated 28.02.2022 (Annexure P3) passed by ld. ASJ, the interim anticipatory bail earlier granted to the petitioner on 22.02.2022 was made absolute subject to the specific condition that he shall cause his appearance before the IO as and when called and shall also abide by all the conditions of bail as mentioned in Section 438(2) CrPC.
8. One of the conditions mentioned in Section 438(2) CrPC is that the person concerned shall make himself available for interrogation by the police officer as and when required. Said condition was even specifically mentioned in the order dated 28.02.2022. Petitioner has placed on record copies of various notices sent to the respondent for appearance (Annexure P4) despite which he failed to turn up so as to join the investigation.
9. In the aforesaid facts and circumstances, the present petition is hereby allowed, after noticing that respondent appears to have willfully made disobedience of the order dated 28.02.2022 and one of the conditions of bail as mentioned in Section 438(2) CrPC. As such, the anticipatory bail granted to the petitioner vide order dated 28.02.2022 (Annexure P3) is hereby canceled. Order dated 12.09.2022 (Annexure P6), whereby application moved before the ld. ASJ, Chandigarh for cancellation of bail was rejected, is hereby set aside.

22.02.2024
Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether speaking/reasoned?</i>	<i>Yes</i>
<i>Whether reportable?</i>	<i>No</i>