

IN THE COURT OF SH. TARNTARAN SINGH BINDRA,
ADDITIONAL SESSIONS JUDGE, FAST TRACK SPECIAL COURT,
FAZILKA. (UID NO. PB0199).

CIS No.	BA 1556/2024
CNR	PBFZC0-004089-2024
DATE OF INSTITUTION	06.08.2024
DATE OF DECISION	12.08.2024

Raj Singh @ Raju, aged 30 years, son of Gurnam Singh, resident of village
Jhangar Bhaini, Tehsil and District Fazilka.

.....Accused/applicant

Versus

State of Punjab.

.....Respondent.

Third bail application under Section 438 of Cr.P.C.

FIR No. 35 dated 01.03.2019
U/Ss :- 451, 376, 506 of Indian Penal Code
Police Station : Sadar, Fazilka.

Present: Sh. Ajay Kamboj, Advocate for accused/applicant.
Sh. Gurbaj Singh, Addl. Public Prosecutor for State.

ORDER

Brief facts of the case, which require consideration for disposal of the present bail application, are that FIR in question was registered against accused/applicant on statement of complainant XXXXX [whose name is not being mentioned in this order in compliance of directions of Hon'ble Supreme Court in **State of Karnataka Versus Puttraj (2004 (1) SCC475)** and is hereinafter called as victim]. After registration of the case, accused/applicant was ordered to be released on bail. Thereafter, accused/applicant absented from proceedings from 05.07.2024, which resulted into issuance of notice to him and subsequently, his bail

order was cancelled. Now anticipating his arrest, accused/applicant has filed the present bail application under section 438 of Code of Criminal Procedure (in short Cr.P.C.).

2. Notice of the present bail application given to respondent/ State. Ld. Additional Public Prosecutor appeared on behalf of respondent/ State and contested the present bail application.

3. I have heard learned counsel for the accused/applicant and learned Additional Public Prosecutor for the State and have gone through the police record.

4. From the perusal of the record it transpires that accused/applicant was earlier released on bail but he absented from proceedings on 05.07.2024. Earlier also, he absented from proceedings of the case on 11.04.2023, due to which his bail order was cancelled and he was re-admitted to bail. There is no justification of absence of accused/applicant on 05.07.2024 on which date his bail order was cancelled. Hon'ble Supreme Court of India in case titled as "**Manish Jain Vs Haryana State Pollution Control Board (Special Leave to Appeal (Crl.) No.5385/2020)**" has held that as a person released on bail is already in the constructive custody of law and if the law requires him to come back to custody for specified reasons, the application for anticipatory bail does not lie. The relevant extract of this para is as under:-

“ A person released on bail is already in the constructive custody of law. If the law requires him to come back to custody for specified reasons, we are afraid that an application for anticipatory bail apprehending arrest will not lie. There can not be an apprehension of arrest by a

person already in the constructive custody of the law.

We, therefore, reject the prayer for anticipatory bail”.

5. On the basis of discussion held in the above paragraph of this order, as the bail application of the accused/applicant under Section 438 of Cr.P.C. is not maintainable, so the same is hereby dismissed.

6. The observations made above, shall not have any bearings on the decision of main case on merits. File be attached with the main case.

Pronounced in Open Court
Dated :- 12.08.2024

Sd/-
(Tarntaran Singh Bindra),
Additional Sessions Judge,
Fast Track Special Court, (POCSO)
Fazilka. (UID No. PB-0199)

Typed by : Sunil Kumar,
Stenographer Grade-I.