



Anticipatory Bail Application Not Maintainable By A Person Who Apprehends Arrest After Cancellation Of Regular Bail: Supreme Court

There cannot be an apprehension of arrest by a person already in the constructive custody of the law, the court said.

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The Supreme Court has held that a person cannot file an anticipatory bail application apprehending arrest following the cancellation of his regular bail.

This is because a person released on bail remains under the 'constructive custody' of law and a person in custody cannot seek anticipatory bail, explained the top court.

The Supreme Court made this observation while refusing anticipatory bail to a person who was apprehending arrest pursuant to cancellation of his regular bail.



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The petitioner, Manish Jain, was granted regular bail in a prosecution under Section 15 of the Environment Protection Act, 1986. The bail then came to be cancelled because of non-appearance.

He approached the Punjab and Haryana High Court seeking anticipatory bail. When the High Court refused him relief, he filed special leave petition in the Supreme Court.

A bench comprising **Justices Navin Sinha and K M Joseph** dismissed the SLP observing :



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"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 cannot be an apprehension of arrest by a person already in the constructive custody of the law. We, therefore, reject the prayer for anticipatory bail".

The Court said that if the petitioner surrenders within two weeks from November 20 and seeks regular bail, it shall be considered on the very same day.



Case Details

Title : Manish Jain v Haryana Pollution Control Board (SLP(CrI) 5385/2020

Appearances: Anik Swarup (Advocate on Record), Advocates G. K. Budhiraja, Jawad Tariq and Tushar Budhiraja(for petitioners); Dr Monika Gusain (for respondent)

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Anticipatory Bail

Section 438 Cr.P C

Code of Criminal Procedure

Justice Navin Sinha

Justice KM Joseph

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