

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M No.12597 of 2016

Date of Decision:-12.04.2016

Anil Jain.

.....Petitioner.

Versus

Amarjit Singh.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Suveer Sheokhand, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Prayer is under Section 438 Cr.PC for grant of anticipatory bail to the petitioner-Anil Jain in Criminal Complaint No.1243/2 dated 26.11.2011 under Section 138 of the of the Negotiable Instruments Act titled as Amarjit Singh Prop M/s Top Export Vs. Anil Jain pending in the court of JMIC, Ludhiana.

In the aforesaid complaint case petitioner was on bail since 23.03.2012. When the case was at the stage of defence evidence, he was absent on 12.05.2015 and on subsequent dates leading to he being declared proclaimed offender on 23.11.2015. Hence the present application for grant of anticipatory bail to the petitioner to join the trial.

Counsel for the petitioner heard at length.

It is contended that since the petitioner was suffering from

fever on 12.5.2015, he requested his counsel to move an application for exemption which inadvertently was not moved. Upon inquiry by the petitioner about the next date, his counsel informed that there was no need for the petitioner to attend the Court in future as the case has been withdrawn by the complainant thus it is prayed that the non appearance of the petitioner was bonafide and unintentional.

After hearing counsel for the petitioner and perusing the impugned orders, no case for grant of anticipatory bail is made out. The dispute was with regard to refund of total of the earnest money for failure by the accused Anil Jain to execute the sale deed in favour of the complainant Amarjit Singh pursuant to an agreement to sell dated 12.4.2006 for sale of agricultural land. Pursuant to the settlement a sum of Rs.2 crores vide two different cheques of one crore each was made to the complainant. Both the cheques were dishonoured leading to filing of two separate complaints. The one cheque bearing no.310942 dated 11.06.2011 for an amount of Rs.1 crore drawn on ICICI bank is the subject matter of the present complaint. It is totally unbelievable that even a ordinary prudent man much less the present petitioner would believe on an alleged saying by his counsel that his presence would not be required as the complainant has withdrawn his complaint. The entire plea is an afterthought set up by the present petitioner to camouflage his culpable negligence in pursuing his case in the present complaint. It appears that his motive was to delay the trial. After his absence on 12.5.2015, he has moved an application on 20.01.2016 for seeking anticipatory bail before the trial Court during which intervening period he was declared proclaimed offender on 23.11.2015 after following

due process of law. For such a litigant who tries to misuse the process of law, no indulgence is required to be shown.

In view of the above, finding no merit in the present petition seeking anticipatory bail on behalf of the petitioner, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

April 12, 2016
Vinay