

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18847 of 2016

DATE OF DECISION: AUGUST 04, 2016

GURDEEP SINGH JASSAL

.... PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Gursimran Singh, Advocate
for the petitioner.

Mr. J.S. Sekhon, AAG, Punjab.

Mr. Jagjot Singh Lalli, Advocate
for respondent No.2/complainant.

JASPAL SINGH, J.

By virtue of this petition preferred under Section 438 of the Code of Criminal Procedure, petitioner has sought pre-arrest bail in case FIR No. 16 dated 16.02.2016 under Sections 406 and 120-B IPC registered at Police Station SBS Nagar, Ludhiana (Annexure P-1).

The contention of learned counsel for the petitioner is that he has been falsely implicated in the instant case by levelling false allegations

that he has intentionally/willfully mis-appropriated the amount of the complainant and has failed to return the said amount to him, as agreed. In fact, the sole object of the complainant is to put pressure upon the petitioner to extract maximum amount. The petitioner never refused to pay the amount in question to the complainant nor mis-appropriated any amount. In fact, the complainant never made efforts to approach the company of the petitioner to receive his due amount. Rather, he has been filing different complaints against the petitioner as well as his company. Moreover, complainant was given security cheque against the sum invested by him, which was presented before the bank without prior intimation to the petitioner, which was dishonoured and proceedings under Section 138 of Negotiable Instruments Act 1881, have also been initiated by the complainant against the petitioner. Moreover, the liability of the petitioner, if any is that of civil nature. He is ready to fulfil his undertaking/promise to pay the amount in question to the complainant.

On the other hand learned State counsel as well counsel for respondent No.2-complainant have strongly opposed the instant petition on the ground that petitioner has dishonoured the undertaking given by him. Earlier the concession of interim bail was granted to the petitioner vide order dated March 03, 2016 passed by learned trial Court as he undertook to make the payment but he failed to comply with the order and slipped away from the proceedings. Ultimately, his application was dismissed.

This Court has given an anxious thought to the the rival submissions made by learned counsel for the parties and have perused the

record available on file.

Undoubtedly, there was some transaction in between the parties earlier. The petitioner by way of an affidavit admitted his liability to pay the amount to the complainant/respondent No.2. On the basis of said affidavit, petitioner was granted the concession of interim bail by learned trial Court vide order dated March 03, 2016 but after availing of the concession of interim bail, he did not honour the said compromise/undertaking. Rather, he slipped away from the proceedings before the trial Court. Consequently, his application for pre-arrest bail was dismissed vide order dated May 11, 2016. Even, thereafter petitioner did not make any effort to make the payment of the amount due towards the complainant/respondent No.2. FDR has already been withdrawn by the petitioner on its maturity.

In the above-referred circumstances it can be safely concluded that petitioner has misused the concession of interim bail granted to him by learned trial Court. Such a person does not deserve any leniency in the matter of bail, especially, in the circumstances that discretion as envisaged under Section 438(2) Cr.P.C. is to be exercised only in exceptional circumstances. Thus, petitioner does not deserve the concession of pre-arrest bail. As such, the instant petition stands dismissed.

August 04, 2016

sham

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No