

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

CRM-M-44781-2016

Date of decision: 15.12.2016

ASI Pardeep Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.RK Dadwal, Advocate for the petitioner

SNEH PRASHAR, J.

The present petition under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') has been filed for grant of anticipatory bail to the petitioner in complaint No.9 dated 4.3.2014 (Annexure P1) titled "Ravjir Kaur vs. Pardeep Kumar ASI and others" pending in the court of learned Judicial Magistrate, 1st Class, Hoshiarpur.

Notice of motion.

On asking of the Court, Mr.Ankur Jain, Assistant Advocate General, Punjab accepts notice on behalf of respondent No.1- State.

Mr.Manoj K.Sharma, puts in appearance on behalf of respondent No.2 but he has neither filed his power of attorney nor memo of appearance on behalf of the said respondent.

The instant petition has been filed for grant of anticipatory bail on the ground that when the complaint, filed by respondent No.2 Rajvir Kaur @ Rajbir Kaur, was fixed for hearing on 27.5.2016, the

petitioner did not put in appearance and the application filed by him for grant of exemption of his personal appearance was dismissed by learned Magistrate and warrants of arrest were issued against him. Learned counsel for the petitioner submits that the petitioner had filed an application for permission to go abroad/ Canada before learned Magistrate on 26.4.2016 i.e. well before he was to leave on 22.5.2016. The application was adjourned repeatedly but no order was passed on the same by learned Magistrate and on 16.5.2016, it was adjourned for the date fixed i.e. 27.5.2016 in the main complaint. Since, the petitioner was to go abroad on 22.5.2016, he applied for preponing the application on 17.5.2016 and the said application was again adjourned on day to day basis but no order was passed and ultimately on 23.5.2016, it was adjourned for 27.5.2016 the date fixed in the case. Since, the marriage alliance of son of the petitioner was to be settled and the dates had been finalized, the petitioner had no option but to leave the country on the date fixed i.e. 22.5.2016. His absence was neither intentional nor without intimation to the learned trial Court.

On the other hand, learned counsel for respondent No.2 submits that the petitioner not only breached the condition on which he was granted bail but he also remained absent for almost six months.

The facts indicate that the petitioner had given the required application to trial Court well in time seeking permission to go abroad, but for the reasons this Court finds no explanation the application remained pending and no order was passed on the same by learned

Magistrate. Even the application for early hearing of the application filed by the petitioner remained undisposed till the date the petitioner had to leave. Thereafter the application for exemption of appearance filed on behalf of the petitioner was dismissed.

In view of the aforesaid facts and circumstances and without going into the merits of the case, the present petition is disposed of with a direction to the petitioner to appear before learned trial Court on or before 19.12.2016. On his appearance, he will be admitted to bail subject to his furnishing fresh personal/ surety bonds to the satisfaction of learned trial Court, failing which, the present petition shall be deemed to be dismissed. However, the trial Court shall be at liberty to initiate proceedings under Section 446 Cr.P.C. against the petitioner.

15.12.2016
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No