

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

Sr. No.103

CRM-M No.46753 of 2016
Date of decision: 29.12.2016

Saroj and another

....Petitioners

versus

Davinder

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. A.P.S. Sandhu, Advocate
for the petitioners.

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DEEPAK SIBAL, J. (Oral)

A correct copy of Annexure P-2 has been produced in Court, which is ordered to be taken on record and substituted in place of the originally filed Annexure P-2.

Through the present petition filed under Section 438 Cr.P.C. anticipatory bail in a complaint case under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act') is prayed for. The grant of the same was denied through the impugned order dated 23.11.2016 passed by the Sessions Judge, Amritsar.

A perusal of the record reveals that on a complaint having been filed under Section 138 of the Act, through order dated 24.05.2012, the petitioners alongwith one Vivek Sharma were summoned. Admittedly, Vivek Sharma is the son of petitioner No.1 and nephew of petitioner No.2. Though Vivek Sharma put in appearance, the petitioners

did not. Till date they have not done so.

The petitioners had challenged the summoning order. They were thus aware of the pendency of the above said complaint but chose not to appear. It was the case of the petitioners that petitioner No.1-Saroj was not aware of the pendency of the above referred complaint since she was not residing with the above said Vivek Sharma. However, on perusal of the copy of the ration card, it was found that the plea taken by petitioner No.1 was false as the address of petitioner No.1-Saroj in the ration card was same as of Vivek Sharma. Rather, petitioner No.2-Smt. Pawan was also found to be residing in the same house.

On 02.01.2016 the petitioners were declared as proclaimed offenders. It is not disputed by the learned counsel for the petitioners that the order dated 02.01.2016 has not been challenged by them.

Learned counsel for the petitioners submits that the petitioners were not evading the process of law but were rather taking recourse to remedies available under the law to challenge the summoning order. It is submitted that they had challenged the summoning order right up to this Court through CRM-M No.12811 of 2015, which was dismissed as withdrawn on 01.10.2015.

This argument of the learned counsel for the petitioners is to be considered only to be rejected.

The petitioners who are presently declared as proclaimed offenders, were summoned to appear in the complaint case through order dated 24.05.2012 but for the last over four and a half years have chosen to evade appearance. The plea that the petitioners were pursuing their

remedies against the order summoning them dents their defence as it shows that the petitioners were well aware of the pending litigation but in spite of the same voluntarily chose not to join the proceedings. Even otherwise, this Court finally dismissed their petition in October, 2015 and even after the passage of over one year, thereafter, the petitioners evaded joining the proceedings in pursuance to the above said complaint pending against them showing scant respect for law.

In view of the above, I am of the view that the petitioners are not entitled to the grant of concession of anticipatory bail.

Dismissed.

(DEEPAK SIBAL)
JUDGE

December 29, 2016

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(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No