

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRL. MISC. No.M-10611 OF 2017 (O&M)
DATE OF DECISION : 30th MARCH, 2017

Amrik Ram

.... *Petitioner*

Versus

State of Punjab

.... *Respondent*

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Sandeep Verma, Advocate for the petitioner.

* * * *

A. B. CHAUDHARI, J. (ORAL)

Notice of motion.

Ms. Rajni Gupta, Addl. A.G. Punjab accepts notice on behalf of the State.

In FIR No.38 dated 25.03.2011 registered under Sections 63 and 64 of Copy Right Act, 1957 (Amendment Acts 1984 & 1994) and Section 103 of Trade Marks Act, 1999, Police Station Goraya, District Jalandhar, the petitioner is being prosecuted before the trial Court. He was released on bail during the trial. All the offences are bailable. He applied for grant of anticipatory bail before the Sessions Court and his petition for anticipatory bail was rejected by the Sessions Court. The Sessions Court further held that when a person is declared proclaimed offender (PO) he is not entitled to the anticipatory bail as per the observations made by Hon'ble Supreme Court in *Criminal Appeal No.1331 of 2012* arising out of *SPL (CrI) No.1961 of 2012* titled as *Lavesh Vs. State (NCT of Delhi) decided on 31.08.2012*. Admittedly, the offences in which the anticipatory bail is sought by the present

petitioner, are bailable and therefore, the petition for anticipatory bail is not maintainable. The Sessions Court ought to have held it to be so. Since the Sessions Court did not grant anticipatory bail to the petitioner the present petition has been filed by the petitioner obviously which is not maintainable. However, I find that the petitioner continued to remain absent before the trial Court for facing the trial right from the year 2015 and therefore, the Court had issued warrant for securing his appearance. Thereafter, proclamation was also issued and finally vide order dated 17.04.2015 the trial Court declared the petitioner as PO. That is how the petitioner has come before this Court.

Since I have held that the petition for anticipatory bail is not maintainable, the question of grant of relief of anticipatory bail does not arise. However, I find that the petitioner has placed on record the order dated 17.04.2015 declaring him PO. In view of the fact that the offences are bailable and the petitioner made mistake in not appearing before the trial Court there is no need to push him in jail merely because he has chosen to remain absent before the trial Court for facing the trial particularly because the counsel for the petitioner on instructions from the petitioner made a statement that the petitioner would appear before the trial Court with promptitude and would not hereafter make any default in facing the trial till the same is decided, I think there is no need to curtail the liberty of the petitioner in the trial as aforesaid, in view of the above undertaking of the petitioner. However, the petitioner will have to pay costs in the sum of ₹5,000/- to be forfeited to the State of Punjab, upon deposit of the same before the trial Court on the date appointed before the trial Court as a pre-condition.

In that view of the matter, I make the following order:

ORDER

- (i) Rule is made absolute.
- (ii) Order dated 17.04.2015 (by amendment) is set aside, subject to deposit of costs amount of ₹5,000/- as a pre-condition as aforesaid. The petitioner to appear before the trial Court on 06.04.2017 and furnish bail bonds to the satisfaction of the trial Court.
- (iii) The petitioner would continue to appear before the trial Court with promptitude till the completion of trial.
- (iv) The present petition for anticipatory bail is converted into petition under Section 482 Cr.P.C. The counsel for the petitioner to amend this petition by taking steps to make necessary amendments by filing the requisite documents in the Registry for conversion. The amendment be carried out within two weeks from today.
- (v) Any further default would be viewed seriously by the trial Court.

Disposed of accordingly.

30th March, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>No</i>