

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-25445-2017 (O&M)

Date of decision: 18.07.2017

Harjinder Pal Singh @ Jagga Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Dinesh Trehan, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

1. Through this petition under Section 438 Cr.P.C., the petitioner seeks anticipatory bail in Complaint Case No. 108/1 dated 01.05.2009 titled Jagdev Singh @ Jagga Vs. Harjinder Pal Singh and others, under Sections 324, 341, 506, 148, 149 of the Indian Penal Code (for short 'IPC') and Section 25/27 of the Arms Act.

2. In nutshell, the petitioner along with his co-accused was summoned in the aforesaid complaint by the trial Court, vide summoning order dated 09.02.2010 (Annexure P-1/A). Since, the petitioner was not present in India, therefore, was declared as proclaimed offender by the trial Court vide order dated 04.06.2012 (Annexure P-2). However, during trial, a compromise was arrived at between the parties. Consequently, the complaint was dismissed vide order dated 12.12.2015 (Annexure P-3) in the Lok Adalat, as having been compromised.

3. After coming to India, the petitioner filed CRM-M-19521-2016, before this Court seeking quashing of aforesaid complaint along with summoning order dated 09.02.2010 (Annexure P-1/A) on the basis of

compromise, whereupon this Court vide order dated 01.06.2016 (Annexure P-4), directed the petitioner and the complainant to appear before the trial Court for recording their statements qua compromise while staying the operation of order dated 04.06.2012 (Annexure P-2) declaring the petitioner as proclaimed offender. Pursuant thereto, the petitioner moved an application for grant of anticipatory bail before the Sessions Court at Ludhiana and vide order dated 10.03.2017, he was granted interim bail with a direction to appear before the trial Court on or before 28.03.2017, in pursuance of the order Annexure P-4 passed by this Court. Consequently, on 24.03.2017, the petitioner appeared before the trial Court and his bail application was accepted subject to his furnishing bail bonds and surety bonds in the sum of ₹ 30,000/- with one surety in the like amount which he furnished and accepted. Thereafter, the complainant as well as the petitioner appeared before the learned trial Court on 28.04.2017 and got recorded their statements qua compromise. The complainant in his statement stated that he has no objection, if the proceedings against the petitioner declaring him as proclaimed offender are dropped. The case was then adjourned to 20.05.2017 for further proceedings. However, the learned Additional Sessions Judge, Ludhiana, vide order dated 07.06.2017 (Annexure P-5) rejected the anticipatory bail of the petitioner, on the ground that he was avoiding process of law and since, he has been declared as proclaimed offender, therefore, he has to surrender.

4. I have heard learned counsel for the petitioner and perused the paper book.

5. In view of the totality of the facts and circumstances of the case, but without commenting upon the merits, the petitioner is held entitled

to the concession of anticipatory bail for the simple reason that in terms of order Annexure P-4 passed by this Court in CRM-M-19521-2016, the petitioner had appeared before the trial Court along with complainant to record his statement qua compromise in between them. On the application for grant of anticipatory bail, the learned Additional Sessions Judge, Ludhiana, vide order dated 10.03.2017, granted interim bail to the petitioner with a direction to appear before the trial Court on or before 28.03.2017. Pursuant thereto, the petitioner had filed an application for bail before the trial Court which was accepted vide order dated 24.03.2017. The complaint was also dismissed as withdrawn having been compromised, therefore, as on today, no complaint/proceedings against the petitioner is/are pending in any of the Courts below.

6. In view of the above factual aspect of the case, the findings of the learned Additional Sessions Judge, Ludhiana in the impugned order dated 07.06.2017 (Annexure P-5) that the petitioner instead of surrendering before the Court, had been avoiding the process of law since long are perverse and illegal.

7. Resultantly, the instant petition is allowed and impugned order dated 07.06.2017, is set aside. The petitioner is admitted to bail on his furnishing bail bonds and surety bonds in the sum of ₹ 30,000/- with one surety in the like amount, to the satisfaction of Chief Judicial Magistrate/trial Court, Ludhiana. The petitioner shall abide by the conditions as enshrined in Section 438 (2) Cr.P.C.

July 18, 2017

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No