

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-9849 of 2017 (O&M)

Date of Decision: 02.05.2017

Ajay Kumar

--Petitioner

Versus

Hans Raj Bansal & another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. A.K. Walia, Advocate for the petitioner.

Mr. Balwinder Singh, Advocate for respondent no.1.

Mr. Varun Sharma, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J

The present petition has been filed under Section 439 Cr.P.C seeking the benefit of regular bail to the petitioner in complaint case no.COMA-38014/2013 dated 4.9.2012 under section 138 of Negotiable Instruments Act.

Notice of motion was issued on 28.3.2017 by this Court in the following terms:-

“The instant petition has been filed under Section 439 Cr.P.C. seeking benefit of regular bail to the petitioner in complaint case No.COMA-38014/2013 dated 04.09.2012, under Section 138 of Negotiable Instruments Act.

Counsel submits that the petitioner had initially been appearing before the trial Court but on account of certain bona fide reasons having absented himself, he was declared a proclaimed person.

It is submitted that the petitioner was arrested on 12.02.2017.

The categoric undertaking furnished by counsel is that the petitioner if granted benefit of bail would settle the matter with the complainant as the amount in question is

Rs.2,26,500/-.

Notice of motion, returnable for 02.05.2017.

Process dasti as well.

In the meanwhile, petitioner be enlarged on interim bail for a period of three weeks subject to satisfaction of the trial Court.

It has been made clear that such concession is being granted in the light of undertaking furnished by the counsel to settle the matter with the complainant.

If on the adjourned date, it is found that the petitioner has not made over the sum of Rs.2,26,500/- to the complainant, the present petition seeking benefit of regular bail shall stand dismissed.”

Counsel appearing for the petitioner, during the course of hearing today would take a stand that an accused cannot be forced to make deposit of the entire cheque amount so as to secure the concession of pre-arrest bail. Accordingly, it is urged that the undertaking recorded with regard to paying the amount of Rs.2,26,500/- cannot be made good. Counsel further argues that such undertaking had been furnished only having been confronted with a situation whereby this Court was not inclined to grant the concession of pre-arrest bail.

In the considered view of this Court the stand taken by counsel for the petitioner is wholly misconceived.

In the first instance, there was no direction issued by this Court for the petitioner to pay to the complainant the entire cheque amount. It was an undertaking furnished by the counsel towards settlement of the matter with the complainant.

Even such offer and undertaking had been furnished by counsel in the light of the fact that the petitioner had evaded trial proceedings and had already been declared a Proclaimed Offender.

In view of the factual premise, whereby the petitioner is resiling from the undertaking furnished before this Court and coupled with the fact that he had already been declared a Proclaimed Offender having evaded the trial proceedings, this Court is not inclined to extend in favour of the petitioner the concession of pre-arrest bail.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

02.05.2017

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Whether speaking/reasoned:	Yes
Whether Reportable:	No