

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

106

CRM-M-20088-2018

Date of decision: 11.05.2018

Himanshu Gopal

...PETITIONER

VERSUS

State of Punjab and another

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court praying for grant of anticipatory bail.

Notice of motion.

Mr. D.S.Sobti, Advocate, has put in appearance on behalf of the complainant-respondent No. 2 and filed his power of attorney.

The prayer made in the present petition is opposed by counsel for respondent No. 2 by asserting that the present petition is not maintainable.

This plea of the counsel for respondent No. 2 is not accepted as the present petition is maintainable and in any case this Court can take suo moto it as a writ under Sections 226 and 227 of the Constitution of India and exercising the said powers, the present petition can be taken up for hearing.

It is the contention of the learned counsel for the petitioner that the petitioner had been earlier moving an application for exemption from appearance, which has been allowed on some occasions. It was only on 16.03.2018 that the petitioner had absented from appearance and had moved an application for exemption and that too, on medical grounds since the petitioner was not in a position to appear as he was suffering from Lumber Spondylitis and was under treatment in the hospital. He contends that after issuance of non-bailable warrants against the petitioner, which were not served, the proceedings under Section 82 Cr. P.C. for proclamation have been initiated by the learned Chief Judicial Magistrate, Mohali vide order dated 16.04.2018. He contends that the petitioner is ready and willing to appear before the trial Court on the date already fixed i.e. 16.05.2018 and further undertakes that on all dates of hearing, he would appear invariably before the trial Court and not even seek exemption from personal appearance.

Counsel for the complainant-respondent No. 2 still opposes the prayer of the counsel for the petitioner by asserting that the proceedings, which have been initiated under Section 82 Cr. P.C., will have to be again resorted to, in case the petitioner absented himself and the process would continue from that stage.

Counsel for the petitioner states that in case, the petitioner absents himself from appearance before the trial Court on one date, order dated 16.04.2018 be revived and let the proceedings start from that stage.

In view of the above position, in case the petitioner appears before the trial Court on 16.05.2018 and moves an application for grant of

regular bail, the same would be entertained. However, if an undertaking is given by the petitioner in consonance with the statement of the counsel for the petitioner, the Court shall accept the prayer in the bail application. One opportunity shall be given to the petitioner to cross-examine the complainant as it has been informed that his examination-in-chief is complete. The trial Court shall make an endeavour to conclude the trial at an early date.

Petition stands disposed of accordingly.

May 11, 2018
pj

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No