

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 27073 of 2018 (O&M)

Date of decision : 6.10.2018

...

Rajesh Goyal

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Munish Behl, Advocate for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

Ms. Dimple, complainant in person.

...

H. S. Madaan, J.

This petition for pre-arrest bail has been filed by petitioner Rajesh Goyal, being accused in FIR No. 54 dated 25.9.2013, for offences under Sections 406, 498-A IPC registered at Police Station Women, Bathinda.

Briefly stated, facts of the case, as per the prosecution story are that petitioner Rajesh Goyal, has been facing trial in the Court of Judicial Magistrate Ist Class, Bathinda. The date of hearing in the trial Court was fixed as 21.3.2018, but the petitioner did not appear in the court on that date, rather an application for exemption from personal appearance was filed in the court through brother of the petitioner namely, Hardeep Kumar Goyal, for the reason that he was

suffering from lambosacral strain and had been advised complete hard bed rest in bending position for 10 days. However his application was rejected by the trial court and non-bailable warrants of arrest were issued against the petitioner. The petitioner had approached the Court of Sessions at Bathinda, seeking pre-arrest bail but his such petition was dismissed by learned Additional Sessions Judge, Bathinda, vide order dated 24.4.2018, as such he has approached this court craving for grant of similar relief, which request is being opposed by the State counsel, as well as the complainant.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

Learned counsel for the petitioner submitted that non-appearance of the petitioner in the trial court on 21.3.2018 was not intentional or willful but for the reason of his ailment and an application exemption from personal appearance was duly filed in the trial court, through brother of the petitioner, but it was wrongly declined by the court. The petitioner has since appeared in the trial court and has been granted interim bail. He has deposited a sum of Rs 2 lacs in the name of the complainant on account of arrears of maintenance and Rs. 20,000/- in District Legal Service Authority, as costs. These amounts have been released to the respondent. It is further contended that sending the petitioner behind the bars would not serve any purpose and he undertakes to appear in the trial court on each and every date of hearing.

Whereas learned State counsel is opposing the request.

The complainant has also submitted that petitioner is avoiding appearance in the court, so that he may not have to clear the arrears of maintenance and he is in the habit of flouting the orders passed by the court. Therefore he is not entitled to the concession of pre-arrest bail, as such his request be declined.

After hearing the rival contentions I find that the petitioner had not appeared in the trial court on one date of hearing i.e. 21.3.2018. However on that date, an application for exemption from personal appearance for the reason of ailment, was filed which was rejected by the trial court. Thereafter he has put in appearance in the trial court and has been granted interim bail. Further he has paid a sum of Rs. 2 lacs to the complainant towards arrears of maintenance. He has undertaken to appear in the court on each and every date of hearing, as such sending him behind the bars would not serve any purpose.

Therefore the petition is accepted and interim bail granted to the petitioner vide order dated 12.7.2018, is made absolute subject to the conditions:-

- i) that he shall appear in the court on each and every date of hearing;
- ii) that he shall not give any threat or inducement to any prosecution witness;
- iii) that he shall not leave India without prior permission of the court; he shall surrender his passport if he has got one, otherwise to furnish affidavit in that regard.

It is made clear that in case petitioner remains absent

from the court without any intimation in future without justification,
then he would not be entitled to the concession of pre-arrest bail.

6.10.2018
chugh

(H.S. Madaan)
Judge

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No