

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-38528-2018 (O&M)

Date of decision: 28.11.2018

Jagjit Singh @ Jagjit Gill @ Jagjit Khan

..Petitioner(s)

VERSUS

M/s Dashmesh Filling Station

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Yashpal Thakur, Advocate.
for the petitioner.

Mr. Gurcharan Dass, Advocate,
for the respondent.

RAJ SHEKHAR ATTRI, J.(Oral)

The present petition has been filed under Section 438 Code of Criminal Procedure for grant of anticipatory bail to the petitioner against arrest warrant dated 15.3.2017 issued in Complaint (CNR No. PBLD010165142018) NACT-281 instituted on 26.8.2016 under Section 138 of Negotiable Instruments Act.

Heard.

From the record of the trial court, it transpires that summons were issued to the petitioner for 5.1.2017 on 2.12.2016 which was received back with the report that he was not available at home but his wife has reported that he was not available at home. In spite of that, process server made a report that he was avoiding service, therefore, bailable warrants of arrest were issued which were returned with the report that he was not available at home and statement of the wife to the effect was recorded that he has gone out of State. Thereafter, non-bailable warrants were issued and

his wife informed that he has gone out of State and was not available. Thereafter, proclamation was issued.

To the mind of this Court, no proper course has been adopted to serve the petitioner.

Learned State counsel states that the petitioner has joined the proceedings.

Learned counsel for the respondent has relied on the judgments of this Court passed in **Rajbir alias Lilu v. State of Haryana**; 2003 (4) RCR (Criminal) 773, **Hashim alias Hasam v. State of Haryana**; 2010 (25) RCR (Criminal) 152 and **Varsha Aggarwal v. Avtar Singh**; 2017 (4) RCR (Criminal) 704 but those are distinguishable on facts.

Without expressing any opinion on the merits of the case, this petition is allowed and the order dated 5.9.2018 is made absolute subject to the following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

(RAJ SHEKHAR ATTRI)
JUDGE

November 28, 2018
Paritosh Kumar

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

