

CRM-M-29330 of 2018

Date of decision : February 01, 2019

M/s Kishore Trading Company, Patti and anotherPetitioners

Versus

Anil Jossan and anotherRespondents

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sandeep Sharma, Advocate for
Mr. Veneet Sharma, Advocate
for the petitioners.

None for the respondents.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer made in the petition is for setting aside/modifying the order dated 22.2.2018 (Annexure P2) passed by the learned Additional Sessions Judge, Tarn Taran to the extent that the accused respondents have been allowed to furnish personal bonds in the complaint case, i.e. Complaint No.589/2017 dated 26.4.2017 titled "M/s Kishore Trading Company, Patti and another Vs. Anil Joshan and another" under Section 138 of the Negotiable Instruments Act.

Brief facts of the case are that on account of dishonour of cheques, 27 complaints have been filed under Section 138 of the Negotiable Instruments Act against the respondents by the different cheque holders and the respondents were summoned by the trial Courts to face the trial.

Though the offence under Section 138 of the N.I. Act is bailable, however, accused filed 28 anticipatory bail applications before the Additional Sessions Judge, Tarn Taran and while allowing the said

applications, direction was issued to the respondent to appear before the trial Court and the trial Court was further directed to release the petitioner on bail on his furnishing bail bonds and surety bonds in the sum of Rs.1,00,000/- to the satisfaction of the trial Court.

The Additional Sessions Judge, while passing the said order has relied upon the judgment of the Hon'ble Supreme Court in 2009(2) RCR (Criminal) 162 titled as "Rasiklal Vs. Kishore", wherein it has been held that in case of a bailable offence, the Court can release an accused on bail subject to condition which it may deem fit.

The only objection raised by the petitioner is that in fact, the offences being triable by the Court of Magistrate as the offences being bailable, the anticipatory bail application was not maintainable before the Additional Sessions Judge and further the condition imposed by the Additional Sessions Judge, while granting the anticipatory bail that the trial Court will release the respondent accused on furnishing their personal bonds in the sum of Rs.1,00,000/- each, without directing them to furnish surety bonds, is illegal. However, it is not disputed that accused have appeared before trial Court and are facing trial.

After hearing learned counsel for the petitioner, I found no ground to interfere in the order passed by the Additional Sessions Judge, Tarn Taran. Though on the face of it, the order passed by the Additional Sessions Judge allowing the anticipatory bail in a case where the offence was bailable is not sustainable as the anticipatory bail was not maintainable. However, the direction issued by the Additional Sessions Judge to the trial Court to release the respondents on bail on furnishing their personal bonds,

cannot be held to be illegal directions. In view of the judgment of the Hon'ble Supreme Court in case Rasiklal (supra), since the offences are bailable, and accused can be released on furnishing personal bonds, no illegality can be found in the order passed by the trial Court directing the release of the accused on furnishing personal bonds in the sum of Rs.1,00,000/- each.

The petition is, accordingly, dismissed.

February 01, 2019
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(ARVIND SINGH SANGWAN)
JUDGE