

139 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-17107-2019 (O&M)
Date of decision:12.04.2019

Balwinder Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. N.S.Lucky, Advocate for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.215, dated 23.11.2016, under Section 61 of the Punjab Excise Act, 1914, registered at Police Station City Phagwara, District Kapurthala.

Learned counsel for the petitioner submits that the petitioner was regularly appearing before the trial Court. However, on 09.07.2018, the petitioner could not appear before the trial Court. As a result, bail of the petitioner was cancelled and warrants of arrest have been issued against him. It is further submitted that the absence of the petitioner is not intentional. The petitioner could not appear before the trial Court on the said that because he was suffering from low back ache and the treatment of the same was going on. Apprehending the arrest, the petitioner had filed an application seeking anticipatory bail before the Court of Sessions Judge, Kapurthala. Vide order dated 19.03.2019, the petitioner was directed by Additional Sessions Judge to appear before the Illaqa Magistrate/Duty Magistrate on or before 26.03.2019 and it was ordered that the petitioner shall be released on bail by the said Magistrate. A cost was also imposed.

However, copy of the order dated 19.03.2019 passed by the Additional Sessions Judge, Kapurthala was not uploaded on the website and thereafter, the Court was closed from 21.03.2019 to 24.03.2019. Even the office where the cost was to be deposited was at a different place. So neither the petitioner could appear before Magistrate nor could he deposit the cost by 26.03.2019. Accordingly, the petitioner had moved an application before the Additional Sessions Judge, Kapurthala on 26.03.2019; for extension of time for appearing before Magistrate and depositing the costs, as was earlier directed by the Additional Sessions Judge. However, that application has also been dismissed by the Additional Sessions Judge. Hence, the petitioner is under apprehension of arrest. It is further submitted that the petitioner had been appearing before the Trial Court earlier also and even after cancellation of bail, he has subjected himself to the process of the Court by filing appropriate application before the Additional Sessions Judge. In any case, the petitioner intends to appear before the trial Court to face the further proceedings; in accordance with law. It is further contended by the learned counsel for the petitioner that the petitioner has no intention to flee from the course of justice. The only prayer is that the petitioner be protected from his arrest.

Notice of motion.

Mr. K.S.Aulakh, DAG, Punjab, accepts notice on behalf of the State. Learned State Counsel does not have any objection if the petitioner appears before the trial Court.

Heard.

The objective of the coercive mechanism prescribed under the

Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, the present petition is allowed subject to the petitioner appearing before the trial Court on or before 25.04.2019. It is further directed that in case, the petitioner so appears before the trial Court then the petitioner shall be released on bail on his furnishing bail bond/surety to the satisfaction of the trial Court.

(RAJBIR SEHRAWAT)
JUDGE

12.04.2019

Hemlata

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No