

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 12.12.2019

1. CRM-M-35943-2019 (O&M)

Rohit Joshi

... Petitioner

Vs.

State of Punjab

... Respondent

2. CRM-M-33867-2019 (O&M)

Rohit Joshi and another

... Petitioners

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sandeep Arora, Advocate
for the petitioner(s) (in both cases).

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. A.S. Gill, Advocate
for the complainant (in CRM-M-35943-2019) and
for respondent No.2 (in CRM-M-33867-2019).

ARVIND SINGH SANGWAN, J. (ORAL)

Vide this common order, both the aforementioned petitions shall be
disposed of.

Prayer in **CRM-M-35943-2019** is for grant of anticipatory bail in

FIR No.96 dated 16.07.2019 under Section 174-A IPC, registered at Police Station Navi Baradari, District Jalandhar.

Prayer in **CRM-M-33867-2019** is for setting aside the order dated 10.07.2018 passed by the trial Court, vide which the petitioner was declared as proclaimed person in complaint case bearing No.NACT/7294/2017 titled as M/s Shalimar Marketing Vs. M/s Ganpati Engineers and another, under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel for the petitioners has argued that the petitioner was never served with the summons and he was declared as proclaimed person without following the proper procedure.

Reply by way of affidavit of Assistant Commissioner of Police, Central Jalandhar on behalf of the respondent-State is on record, in which it is stated that the petitioner was declared as proclaimed person, as he could not be served with the summons/warrants issued in the complaint case.

Learned counsel for the complainant has argued that the petitioner be directed to deposit some amount with the trial Court as a surety.

In reply, learned counsel for the petitioners submits that since the petitioner intends to contest the case/complaint filed under Section 138 of N.I. Act, he is ready to deposit a sum of Rs.1.00 lac with the trial Court, to be kept in an FDR subject to final outcome of the case.

In view of the above, both these petitions are allowed. The order dated 10.07.2018 passed by the trial Court, declaring the petitioner as proclaimed offender, is set aside.

The petitioner is directed to appear before the trial Court within a period of 15 days from today and he will be released on bail subject to his

furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate.

The petitioner is granted one month's time to deposit the amount of Rs.1.00 lac with the trial Court/Illaqa Magistrate, which shall be kept in an FDR without prejudice to his right of defence and subject to final outcome of the case.

It is made clear that if the amount of Rs.1.00 lac is not deposited by the petitioner on or before 15.01.2020, both these petitions shall be deemed to be dismissed without any further orders.

Since the order, declaring the petitioner as proclaimed offender, is set aside, the petitioner is also granted the concession of anticipatory bail in aforesaid FIR No.96, subject to the conditions envisaged under Section 438 (2) Cr.P.C.

It will be open for the Investigating Officer to call the petitioner for the purpose of joining the investigation by issuing a notice in writing.

[ARVIND SINGH SANGWAN]
JUDGE

12.12.2019
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No