

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

**CRM-M No. 36916 of 2019 (O & M)
Date of Decision:-17.09.2019**

Atul Goel

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Satbir Singh Gill, Advocate
for the petitioner.

MANOJ BAJAJ J.(Oral)

This petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in Complaint No.NIA/424 of 2016, dated 26.2.2016, under Section 138 of Negotiable Instruments Act, Police Station Barara, as his bail stands cancelled by the trial Court on account of his absence vide order dated 19.11.2018.

The petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail, which may not be maintainable as the petitioner had been granted the concession of regular bail previously. At this stage learned counsel for the petitioner makes a prayer for considering the petition under Section 482 Cr.P.C. and further craves indulgence of this

Court to put a challenge to the order dated 19.11.2018 passed by the Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri whereby his bail was cancelled. On the oral request of learned counsel for the petitioner the petition is treated under Section 482 Cr.P.C.

Learned counsel for the petitioner contends that the petitioner was regularly appearing before the learned trial Court during the proceedings. However, he could not attend the Court proceedings on 19.11.2018, due to his illness, and the trial Court proceeded to cancel his bail and forfeited bonds to the State. Learned counsel further contends that after passing of order dated 19.11.2018, the petitioner could not appear before the trial Court as he was declared proclaimed person in various identical complaints filed against him by different persons. The petitioner had suffered a huge loss in his business and apprehended that upon appearance before the trial Court, he would be arrested pursuant to different complaints. Learned counsel submits that in the present case the petitioner was declared proclaimed person vide order dated 18.3.2019 (Annexure P-3). Consequently, an FIR No.528 dated 20.5.2019, under Section 174-A IPC has also been registered against the petitioner at Police Station Jagadhari City.

Mr. Gill submits that the petitioner is ready to appear before the trial Court to face the proceedings but he apprehends his arrest. Learned counsel further relies upon order dated 23.7.2019 passed by co-ordinate Bench of this Court in CRM-M-29686-2019, order dated 23.7.2019 in CRM-M-29865 and 29814 of 2019 and order dated 02.9.2019

passed by this Court in CRM-M-36511-2019 wherein the petitioner has been granted interim protection. He further submits that in all other cases the petitioner has appeared before the trial Court.

Notice of motion to State of Haryana only as the Court finds that there is no necessity to issue notice to respondent No.2-complainant at this stage as it will cause extra burden upon him. However, it shall be open for respondent No.2-complainant to apply for review of the order in case petitioner has pleaded wrong facts or mislead this Court.

At the asking of the Court, Mr. Sukhdeep Parmar, DAG, Haryana accepts notice on behalf of the respondent-State. A complete copy of this paper book has been furnished to the learned State counsel, in the Court.

Learned counsel for the petitioner contends that the petitioner after grant of regular bail in the year 2016 had been appearing before the Court regularly except on 19.11.2018, as on the said date he was prevented by his illness to appear in person before the Court. At times, the complainant or accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence necessarily cannot be treated as wilful or deliberate.

Considering the facts and circumstances of this case, particularly the fact that in all other complaints the petitioner-accused has appeared before the trial Court, this Court accepts the prayer of the petitioner and allows him to join the trial proceedings.

In view of the above, impugned order dated 19.11.2018 is set

aside, however, it shall be open for the trial Court to either allow the petitioner-accused to remain on the same bail bonds and surety bonds or may direct the accused to furnish the bonds afresh.

September 17, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes / No
Whether Reportable	Yes / No