

S.No.110

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

CRM-M-40798 of 2019 (O&M)

Date of Decision:23.09.2019

Pritpal

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Rakesh Gupta, Advocate
for the petitioner.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 438 Cr.P.C for grant of anticipatory bail to the petitioner in complaint case No.160 dated 30.10.2013 for the offence under Section 138 of NI Act pending in the Court of JMIC, Dhuri by setting aside the order dated 02.01.2018 passed by JMIC, Dhuri, whereby the petitioner has been declared as an absconder.

It is contended by counsel for the petitioner that the petitioner was granted bail in this very case. However, after the statement under Section 313 Cr.P.C was recorded, the complainant was ready to compound the offence. Therefore, in lieu of the cheque amount of Rs.1 lakh, Rs.25,000/- was paid to the complainant. The remaining amount was to be paid by 19.08.2017. However, the petitioner could not arrange for the remaining amount. But, subsequent thereto, son of the petitioner got seriously ill. Therefore, the petitioner could not appear before the Court to face further proceedings. However, since the petitioner has now come to know that the petitioner has been declared as a proclaimed person, therefore, he intends to appear before the trial Court and even to compound

the offence by making the relevant payments. Counsel further submits that he has got the demand draft No.388739 dated 17.09.2019 for the balance amount of the cheque, i.e. for Rs.75,000/- in the name of the complainant. He further submits that he would submit this draft before the trial Court. Only prayer is that the petitioner be protected against his arrest.

In view of the nature of the order which this Court intends to pass, the Court does not find it necessary to issue any notice to the opposite side. Hence, the present petition is being disposed of without issuance of the notice to the respondents.

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 and the impugned order is quashed subject to the petitioner appearing before the trial Court on or before 30.09.2019 and producing before it the abovesaid draft of Rs.75,000/-. It is further directed that in case the petitioner so appears before the trial Court on or before 30.09.2019; then he shall be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court.

However, the above-said order is further subject to the payment of costs of Rs.20,000/-. The amount of cost is ordered to be deposited

with Poor Patients Relief Fund, PGI, Chandigarh. It is further clarified that the Court below shall entertain the application of the petitioner, for bail, only when he produces the receipt of the cost having been deposited, as ordered above.

September 23, 2019

(RAJBIR SEHRAWAT)

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JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No