

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

105

CRM-M-43473 of 2019

Date of decision:20.12.2019

Balraj Kumar

... Petitioner

versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr.A.K.Khunger, Advocate,
for the petitioner
Mr.A.P.S.Gill, DAG, Punjab
...

AMOL RATTAN SINGH, J. (Oral)

By this petition, the petitioner seeks the concession of anticipatory bail upon him having been declared to be a proclaimed offender pursuant to proceedings in a criminal complaint instituted by respondent no.2 under the provisions of Section 138 of the Negotiable Instruments Act, 1881.

At the time when notice of motion was issued on 15.10.2019, the following order had been passed:-

“As this Court was not inclined to entertain this petition, Mr.Khunger, learned counsel for the petitioner, submits that the petitioner is willing to return the entire amount of Rs.5 lacs (as is subject matter of the dispute in the complaint instituted by respondent no.2 under the provisions of Section 138 of the Negotiable Instruments Act, 1881), along with the interest thereupon.

That being so, let notice of motion be issued to the respondents, returnable on 15.11.2019.

Respondent no.2 be served by way of *dasti* process only.

In the meanwhile, till the next date of hearing, upon the petitioner surrendering before the trial court, he would be admitted to interim bail, on his furnishing adequate bail and surety bonds to its satisfaction, further subject to his depositing a demand draft of Rs.1 lac in the trial court itself, in favour of respondent no.2. Thereafter, another demand draft of Rs.1 lac shall also be brought by him in this Court, to be paid to respondent no.2.

It is made clear that if the aforesaid conditions are not met with and respondent no.2 is not shown to be served by the next date of hearing, the bail bonds furnished by the petitioner before the trial court would stand forfeited to the State.”

Thereafter, on 15.11.2019, the following order was passed:-

“Pursuant to the order dated 15.10.2019, the order passed by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib, dated 13.11.2019, has been produced in Court today, to the effect that the petitioner had appeared before that Court and had furnished a demand draft for an amount of Rs. 1,00,000/- in favour of respondent no. 2, i.e. Arvinder Singh Uppal and consequently, was admitted to bail to the satisfaction of that Court.

As regards service of notice upon respondent no. 2,

learned counsel has produced in Court the *dasti* notice issued, showing therein that the said respondent stands duly served; but it is stated to have been written by his hand on the said notice, that since he is suffering from a disc problem, he is unable to attend Court.

Another demand draft for a sum of Rs. 1,00,000/- dated 14.11.2019, has been also produced in Court today by learned counsel, again in the name of respondent no. 2.

The said respondent not being present, the demand draft is returned to counsel, with the matter adjourned to 18.12.2019, to enable respondent no. 2 to put an appearance and collect the demand draft from counsel for the petitioner.

Interim order to continue, till the next date of hearing.”

The turn of the matter having come up thereafter on 18.12.2019 after 4.00 pm, it had been adjourned till today to await any appearance of respondent no.2, he having been served of the notice issued as per the report of the Registry.

Today, despite the case having been called out for a second time and it having been specified in the order dated 18.12.2019 that it would be taken up at 12:00 noon, none appears for respondent no.2.

That being so, with the petitioner already having deposited a demand draft of Rs.1,00,000/- before the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib and he also having produced another demand draft of Rs.1,00,000/- on the last date of hearing, without making any comment on the actual merits of the case, the petition is allowed, with the

interim order passed on 15.10.2019 made absolute.

20.12.2019
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No