

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

101

**CRM-M No.47748 of 2019
Date of decision: 08.11.2019**

Anil Kumar @ Neelu

.....Petitioner

Versus

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Mayank Mathur, Advocate for the petitioner.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present petition for grant of anticipatory bail to the petitioner in case No.SC-35-2019/CRN No.PBPT01-004819-2019 arising out of FIR No.211 dated 09.10.2017 registered under Sections 379-B and 411 of the Indian Penal Code, 1860 at Police Station Kotwali, Patiala.

Learned Counsel for the petitioner has submitted that the petitioner was admitted to bail and the petitioner regularly appeared before the Court. The petitioner was unable to attend the Court on 06.09.2019 due to medical reasons. He was ordered to be summoned though arrest warrant for 09.10.2019. Absence of the petitioner on 06.09.2019 was due to circumstances beyond his control. He is ready to surrender and will comply with the terms and conditions regarding his appearance in the Court during trial.

Notice of motion.

On the asking of the Court, Mr. Sandeep Singh Deol, D.A.G. Punjab accepts notice on behalf of the respondent-State. Copy of the paper book has been supplied to the Learned State Counsel who

opposes the anticipatory bail application on the ground that the petitioner misused the concession of bail and absented during trial.

The petitioner was admitted to bail and appeared in the Court till 06.09.2019 on which date he was unable to attend the Court due to medical reasons. No doubt, strictly speaking absence of the petitioner on that date due to medical reasons cannot be said to be deliberate and intentional but a perusal of the zimni orders passed in the case by the trial Court shows that on 19.04.2009 cross-examination of PW-1 Anu Seth was deferred to 13.05.2019 and on 17.07.2019 cross-examination of PW-2 Sardari Lal was deferred to 19.08.2019. In the present case examination of the witnesses was not completed on the date of their appearance and their cross-examination was deferred on request of the petitioner/his Counsel for long periods in violation of directions given by the Hon'ble Supreme Court of India in ***Vinod Kumar Vs. State of Punjab : 2015(1) R.C.R.(Criminal) 647*** and also directions given by this Court in ***Criminal Appeal No.D-299-DB of 2013 titled Bhajan Kaur @ Harbhajan Kaur and another Vs. State of Punjab, decided on 11.10.2017; Criminal Appeal No.D-796-DB of 2008 titled Rakesh Kumar Vs. State of Punjab, decided on 06.11.2012 and CRM-M-14984 of 2017 titled as Ajay Kumar v. State of Punjab, decided on 25.5.2017***. On 06.09.2019 Anu Seth, Sardari Lal and Narinder Sharma were present but they could not be examined as the accused absented. Since the witnesses present could not be examined on that date due to absence of the petitioner, the petitioner will be liable to pay such expenses to them as may be assessed by the Court. The trial Court shall ensure that examination of the witnesses is completed on

the day of their appearance and the accused shall cooperate and ensure that no unnecessary adjournment is sought by his Counsel to prolong their examination. However, in the facts and circumstances of the case no useful purpose will be served by detention of the petitioner. Therefore, the petition is allowed and the petitioner is directed to surrender before the trial Court within 7 days and on such surrender the petitioner shall be released on bail on furnishing of bail bonds by him to the satisfaction of trial Court subject to the condition that the petitioner shall cooperate with the trial Court in examination of the eye-witnesses on the date of their appearance and in case of adoption of any dilatory tactics by the petitioner in this regard, the trial Court shall be at liberty to cancel his bail.

(ARUN KUMAR TYAGI)
JUDGE

08.11.2019
kothiyal

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No