

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 21937 of 2020 (O&M)

Date of decision : 25.8.2020

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Satish Kumar

.....Petitioner

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Amit Mann, Advocate for the petitioner.

Mr. Tanuj Sharma, Deputy Advocate General, Haryana.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been filed by petitioner Satish Kumar, aged 32 years, resident of V&PO Jul Kalan, Tehsil and District Bhiwani, presently residing at Hisar, an accused in FIR No. 102 dated 3.3.2020, for offences under Sections 174-A IPC, registered at Police Station, Bhiwani Civil Lines, District Bhiwani.

Briefly stated, facts of the case are that in a private complaint under Section 138 of the Negotiable Instruments Act, filed by complainant Mahesh Kumar Garg against the present petitioner – accused, he was summoned to put in appearance, but he did not appear, despite issuance of notice, warrants, bailable/non-bailable and publication of proclamation under Section 82 Cr.P.C. against him, with the result that he was declared a proclaimed offender. The

trial Magistrate, informed the police in that regard, which led to registration of FIR in question.

Apprehending his arrest in that case, the petitioner had approached the Court of Sessions at Bhiwani, seeking pre-arrest bail. However, his such application was dismissed by Additional Sessions Judge, Bhiwani, vide order dated 29.7.2020. as such he has knocked at the door of this Court craving for similar relief., which request is being opposed by the State counsel.

I have heard learned counsel for the petitioner, learned State counsel, besides going through the record.

Learned counsel for the petitioner has contended that petitioner -accused has compromised the matter with the complainant, resultantly, the complaint has been withdrawn. He has referred to order dated 5.8.2020, passed by JMIC, Bhiwani in that regard. He has contended that it being so, the petitioner be granted pre-arrest bail.

Whereas learned State counsel has contended that withdrawal of the complaint in question has nothing do do with offence under Section 174-A IPC and such offence is complete when the accused does not appear in the Court in response to proclamation of Section 82 Cr.P.C. and there is nothing on record to show that the order declaring the petitioner as a proclaimed offender has since been set aside. The custodial interrogation of the petitioner is necessary, therefore, he does not deserve the concession of pre-arrest bail.

After hearing learned counsel for the parties, I find that no

case for grant of pre-arrest bail in this case is made out.

Anticipatory bail is a discretionary relief and has to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and any inconvenience and not to screen the culprits from custodial interrogation.

In the present case, when the petitioner did not appear in the Court in response to the proclamation issued against him under Section 82 Cr.P.C. and he was declared a proclaimed offender. The offence under Section 174-A IPC on his part is alleged to have been committed. A person who is an absconder from the Court does not deserve the discretionary relief of pre-arrest bail. His custodial interrogation is necessary to find out as to why he did not appear in the Court even after publication of proclamation under Section 82 Cr.P.C. against him. In case custodial interrogation of the petitioner is denied to the Investigating Agency, that may leave several loose ends and gaps in the investigation, affecting the investigation being carried out, adversely, which is uncalled for.

Therefore, finding no merit in the petition the same stands dismissed.

25.8.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No