

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

202

**CRM-M-24972-2020
Date of decision: 12.10.2020**

Parimal Chander Shekhar Kotpaliwar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Saurabh Dalal, Advocate
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present (first) petition under Section 438 of the Code of Criminal Procedure, 1973 (for short 'the Cr.P.C.') for grant of anticipatory bail to the petitioner in case FIR No.110 dated 04.05.2015 registered under Sections 420, 467, 468, 471, 120B and 201 of the Indian Penal Code, 1860 (for short 'the IPC') and Section 66A of the Information Technology Act, 2000 at Police Station PGIMS, Rohtak.

This Court, vide order dated 28.08.2020 while issuing notice of motion, had granted interim anticipatory bail to the petitioner with direction to surrender before the trial Court.

The petition has been opposed by learned State counsel in terms of short affidavit of Vinod Kumar, HPS, Deputy Superintendent of Police, Rohtak.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the case. The petitioner was apprehended on 08.06.2015 and released on bail on 17.09.2015. The petitioner was arrested in case FIR No. 98/2019 registered at Police Station Chakarbhata Bilaspur, District Bilaspur, Chhattisgarh on 18.06.2019 and was released on bail on 03.12.2019. Absence of the petitioner in the present case on 30.08.2019 leading to cancellation of his bail and issuance of non-bailable warrant of arrest against him was due to the fact of the petitioner being in custody in above referred other case. After his release on bail on 03.12.2019 in the above referred other case, the petitioner could not appear in the Court in the present case during the intervening period due to his illness and subsequently due to lockdown. The petitioner was wrongly declared proclaimed offender vide order dated 17.02.2020 in breach of prescribed procedure. Absence of the petitioner was not intentional and was due to circumstances beyond his control. In compliance with order dated 28.08.2020 the petitioner has surrendered before the trial Court and has been released on interim bail.

Learned State counsel has vehemently opposed the petition and submitted that the petitioner absented without any reasonable excuse and misused the concession of bail. The petitioner is not entitled to grant of anticipatory bail. Therefore, the petition may be dismissed.

However, learned State counsel has admitted that in

compliance with order dated 28.08.2020, the petitioner has surrendered before the trial Court and has been released on interim bail.

Keeping in view the facts and circumstances of the case and the cause of absence as well as the explanation for absence furnished by the petitioner and the fact that the trial is likely to take long time, but without expressing any opinion on the merits of the case, I am of the considered view that the petitioner deserves grant of anticipatory bail.

Therefore, the petition is allowed and interim order dated 28.08.2020 granting interim bail to the petitioner is made absolute.

However, the trial Court shall be at liberty to initiate proceedings under Section 446 of the Cr.P.C. against the petitioner for realization of amount of personal bond furnished by him, which stood forfeited on his non-appearance and also against his surety in accordance with law.

12.10.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

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