

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRM-M-29416 of 2020  
Date of decision:24.09.2020

Dayal Singh

... Petitioner

Vs.

State of Haryana

... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Vimal Kumar Gupta, Advocate  
for the petitioner.

**SUVIR SEHGAL J.(ORAL)**

The hearing of this petition has been taken up through video conferencing due to outbreak of coronavirus (Covid-19) pandemic.

The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.0913 dated 05.08.2019 (Annexure P-1) registered under Section 174-A of Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Jagadhari City, District Yamuna Nagar.

Facts, in brief, are that a cheque dated 02.09.2017 (Annexure P-10) of Rs.14,50,000/- was given by the petitioner to Jagdish Singh, complainant in pursuance to a compromise, Annexure P-6, arrived at between them during the pendency of the first complaint instituted under Sections 138 and 142 of the Negotiable Instruments Act, 1881 (hereinafter referred to as “the Act”). This cheque was presented for payment twice and was dishonored on both occasions. After serving a legal notice, Annexure P-13, the complainant filed the second complaint under the Act, wherein a

fresh compromise dated 17.01.2018 (Annexure P-14) was arrived at between the parties. In this compromise, the complainant acknowledged having received the entire amount partly in cash and remaining through post-dated cheques and he undertook to withdraw the complaint filed by him. The complainant filed an application for withdrawal of the second complaint, in which permission was granted by the trial Court, vide order dated 09.04.2018 (Annexure P-15). The complainant showed the status of the second complaint on his mobile to the petitioner and assured him that the complaint stood withdrawn. Alleging that the cheque, Annexure P-10, has been dishonored upon presentation vide memo dated 04.12.2017, the complainant filed an application for revival of the first complaint and a notice of the application was issued by the trial Court to the petitioner on 04.08.2018 (Annexure P-17). Trusting the complainant, the petitioner did not put in appearance before the trial Court and by order dated 01.07.2019, (Annexure P-18), the petitioner was declared as a Proclaimed Person. The petitioner has challenged the order dated 01.07.2019 (Annexure P-18) by way of a quashing petition bearing CRM-M-25110 of 2020 titled as 'Krishna Dairy Farm and another Versus Jagdish Singh', whereupon this Court, vide order dated 31.08.2020 (Annexure P-20) issued notice of motion and notice regarding stay as well. In pursuance of order dated 01.07.2019 (Annexure P-18), the present FIR under Section 174-A IPC, has been registered against the petitioner. The petitioner filed an application for grant of anticipatory bail before the learned Additional Sessions Judge, which was rejected, vide order dated 18.09.2020 (Annexure P-21).

Counsel submits that the petitioner is the Sarpanch of the village and has unblemished antecedents. By referring to paragraph 12 of

the petition, counsel asserts that the petitioner has paid back the entire amount to the complainant and is willing to surrender before the trial Court and join the proceedings subject to any condition imposed by this Court.

Notice of motion.

Mr. Rajiv Sidhu, Deputy Advocate General, Haryana who is available on conference call, accepts notice on behalf of the respondent-State. He has opposed the petition on the ground that since the petitioner is a Proclaimed Person, he is not entitled to grant of concession of anticipatory bail.

I have considered the submissions of the parties.

The petitioner in all fairness is ready to surrender and join the proceedings before the trial Court. However, it is a fact that due to his conduct, the complainant had to approach the Court twice over. This has resulted into causing undue delay in the recovery of the amount by the complainant. This aspect can be taken care of by directing the petitioner to deposit the costs.

Considering the conduct of the petitioner, this Court deems it appropriate to direct the petitioner to deposit the costs of Rs.25,000/- with the PGIMER Poor Patient Welfare Fund, Chandigarh and surrender before the trial Court within a period of six weeks from today. Upon production of the receipt of the deposit of the costs, the trial Court will release the petitioner on bail. It is made clear that deposit of costs will be a pre-condition for grant of bail to the petitioner. It will be open to the trial Court to impose any other condition as it deems appropriate. The petition is, accordingly, allowed.

It is clarified that any observation made hereinabove shall not be construed to be an expression on the merits of the case.

September 24, 2020  
savita

(SUVIR SEHGAL)  
JUDGE

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|---------------------------|-----|
| Whether Speaking/Reasoned | Yes |
| Whether Reportable        | Yes |