

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

210

**CRM-M No. 49652 of 2019
Date of decision : 27.01.2020**

Amit Gupta

.....Petitioner

Versus

State of Punjab and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

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

Mr. Arun Kaundal, DAG, Punjab
for respondent No. 1-State.

None for respondent No. 2.

ARUN KUMAR TYAGI, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail to the petitioner in complaint No.798 of 2017 titled as 'Payal Arora Vs. Amit Gupta' filed under Sections 138 and 142 of the Negotiable Instruments Act, 1881 pending in the Court of Judicial Magistrate Ist Class, Phagwara, District Kapurthala.

Vide order dated 22.11.2019 while issuing notice of motion, the petitioner was directed to appear before the trial Court on the next date of hearing fixed and on such appearance, the petitioner was ordered to be released on interim bail by the trial Court on furnishing of bail bonds by the petitioner to its satisfaction.

In compliance to notice of motion order, Mr. Arun Kaundal, DAG, Punjab has appeared on behalf of respondent No. 1-State and submits that it being a complaint case under Section 138 of the Negotiable Instruments Act, 1881 no reply is to be filed and arguments are not to be addressed by him.

As per office report, respondent No. 2 was duly served with notice of the petition but none has appeared on behalf of respondent No. 2.

I have heard learned Counsel for the petitioner and learned State Counsel and perused the record.

Learned Counsel for the petitioner has submitted that the petitioner could not appear on 16.08.2019 because he had gone out of station and could not come back due to some unavoidable circumstances. The petitioner appeared before the trial Court and furnished his bail bonds and was accordingly released on interim bail. The petitioner also paid expenses of the witness and the witness was cross-examined on 13.12.2019 and thereafter on 18.01.2020.

It may be observed here that offence under Section 138 of the N.I. Act is bailable and Section 438 of the Cr.P.C is not therefore applicable. However, in view of the facts and circumstances of the case, the petition is disposed of with direction that order granting interim bail to the petitioner be treated as made absolute and the grant of bail and bail bonds furnished shall enure till conclusion of the trial.

The trial Court shall be at liberty to cancel the bail of the petitioner in case the petitioner does not cooperate in recording of evidence of the complainant or adopts dilatory tactics in production of his defence evidence.

In view of the fact that the trial Court gave long dates for cross-examination of the complainant, the trial Court is directed to ensure that in case cross-examination of any witness is deferred by it then the same shall be deferred not by week or months but only by next day or a couple of days as directed by Hon'ble Supreme Court in *State of U.P Vs. Shambhu Nath Singh: 2001(2) RCR (Criminal) 390*.

27.01.2020

Rajeev (rvs)

Whether speaking/reasoned
Whether reportable

(ARUN KUMAR TYAGI)
JUDGE

Yes/No
Yes/No