

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55588-2019

Date of Decision: 04.02.2020

Aass Mohd @ Aish Mohamad

.. Petitioner

Vs.

State of Haryana and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Diwan Singh Adlakha, Advocate for the petitioner.

Ms. Tanushree Gupta, DAG, Haryana.

Mr. U.K. Agnihotri, Advocate
for respondent No.2.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 438 Code of Criminal Procedure seeking anticipatory bail in the pending appeal filed by him challenging his conviction recorded by the JMIC in a complaint under Section 138 NI Act, wherein his warrants of arrest have been issued by the trial Court on account of non-deposit of 20% of compensation amount, as awarded by the trial Court.

On 03.01.2020, the following order was passed by the Court:

“Counsel inter alia contends that the benefit of anticipatory bail has been denied by the Additional Sessions Judge, Yamuna Nagar at Jagadhari on the ground that 20% of the compensation amount, as awarded by the Trial Court, was not deposited. It is pointed out that initially, the sentence was suspended on 14.08.2018 (Annexure P-2) and there was no such condition at that point of time when the notice was issued in the appeal. On an application having been filed, the condition was imposed subsequently on

*14.01.2019. The said order was, however, not complied with and an application for exemption was filed alongwith an application for extension of time to deposit 20% amount which was ordered to be recovered vide order dated 18.04.2019 (Annexure P-5) and the bail of the petitioner was cancelled and warrants of arrest were issued leading to the filing of the anticipatory bail application. It is contended that the matter has been settled with respondent no. 2 as the clearance certificate has also been issued on 25.11.2019 (Annexure P-6) and this fact was also conceded by the counsel for the said respondent when the final order had been passed by the Additional Sessions Judge on 17.12.2019. It is submitted that it has been held in **Vivek Sahni and another vs. Kotak Mahindra Bank Ltd., 2019 (4) RCR (Criminal) 614** that there was no specific provision for automatic cancellation of bail on account of default in payment of percentage of compensation.*

Notice of motion.

Mr. Rajesh Gaur, Addl. A.G., Haryana accepts notice on behalf of respondent no. 1. Copies be supplied to him during the course of the day.

Adjourned to 04.02.2020, for service of respondent no. 2. In the meantime, the petitioner shall put in appearance before the Appellate Court on 15.01.2020 and furnish bail bonds and shall not be taken into custody till further orders.”

Learned counsel for the petitioner submits that in compliance of the order dated 03.01.2020, the petitioner appeared before the trial Court on 15.01.2020, who has been released on interim regular bail upon furnishing the requisite bail bonds and surety bonds.

On the other hand, learned State counsel on instructions from

ASI Satpal does not dispute this fact that the petitioner appeared before the

trial Court on 15.01.2020 and furnished the bail bonds and surety bonds.

Considering the above, the petition is allowed and the petitioner is allowed to remain on the same bail bonds and surety bonds furnished by him before the trial Court on 15.01.2020.

04.02.2020
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No