

102 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4923-2021
Date of Decision: 26.02.2021

ANOOP GARG

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.Saransh Sabharwal, Advocate for the petitioner
Mr.Kuldeep Tiwari, Additional A.G. Haryana

Deepak Sibal, J. (Oral)

Case taken up through Video Conferencing.

The present petition has been filed under Section 438 Cr.P.C.
for the grant of anticipatory bail in a complaint case No.COMA/2562/2018
titled as Ashwini Chadha vs. Anoop Kumar Garg instituted on 04.12.2018.

Respondent No.2 filed a complaint against the petitioner under
Section 138 of Negotiable Instruments Act, 1881 (for short – the Act) for
dishonour of two cheques issued by the petitioner for a cumulative sum of
Rs.1,12,46,500/-. In the trial that ensued the petitioner remained absent from
Court proceedings without any permission resulting in the issuance of
warrants for his arrest and in the light of such development the petitioner
approached the Trial Court under Section 438 Cr.P.C. seeking therein

anticipatory bail. On the dismissal of such petition he has knocked the doors of this Court through the instant petition for the same relief which was denied to him by the Trial Court.

Learned counsel for the petitioner contends that the petitioner could not appear before the Trial Court on account of a communication gap between him and his counsel appeared for him before the Trial Court with regard to the dates of hearing of his trial. The attention of this Court was also drawn to a medical certificate (Annexure P-4) to contend that the absence of the petitioner was not willful but on account of medical advice. On the basis of the afore contentions a prayer was made on behalf of the petitioner to grant him anticipatory bail.

The petitioner contradicts himself for his non-appearance before the Trial Court as on one hand he says that there was some confusion with regard to the date of hearing of his trial and on the other hand he says that he could not appear due to illness.

Further, a perusal of the record reveals that even at the initial stage of the trial the petitioner's presence could be secured only through issuance of non-bailable warrants. The petitioner's evasive and non-cooperative attitude continued even thereafter as he failed to appear before the Trial Court on 05.12.2019. On the next date in his trial i.e. 06.12.2019 the petitioner filed an application seeking exemption from personal appearance on medical grounds but since such application of his was neither accompanied by his affidavit nor any medical certificate the Trial Court rightly rejected his prayer. After evaluating his overall conduct the Trial Court further ordered cancellation of his bail bonds and directed him to be summoned through warrants of arrest for 09.01.2020. Since the petitioner

had sought exemption to appear before the Trial Court on 06.12.2019 and his counsel had appeared before the Trial Court it can safely be presumed that he was made aware of the dismissal of his application seeking therein his personal exemption and issuance of warrants of his arrest. In any case, it was his duty to find out about the outcome of his application filed by him for exemption as also the next date of hearing in his trial. Thereafter, the petitioner failed to appear before the Trial Court on 09.01.2020 as also on the next four dates i.e. 20.01.2020, 07.02.2020, 02.03.2020 and 19.03.2020 and this is in spite of the fact that for the date of hearing on 07.12.2020 warrants of his arrest had been duly served upon his son.

The above evasive and non-cooperative attitude of the petitioner shows his scant respect for the Court proceedings as also reveals his intent to delay the disposal of his trial which is for the dishonour of two cheques issued by him for a cumulative sum of Rs.1,12,46,500/-.

The plea raised on behalf of the petitioner that his absence from Court proceedings was due to a communication gap between him and his counsel appeared for him before the Trial Court is liable to be rejected in the light of his conduct that even at the initial stage of trial his presence could be secured only through issuance of warrants of arrest and that recently on as many as seven consecutive dates he failed to attend Court proceedings without any permission for such absence.

The other plea raised on behalf of the petitioner with regard to him being medically unfit is also misconceived as a perusal of the medical certificate (Annexure P4) reveals that the petitioner had been recommended medical leave till 30.11.2019 whereas the record reveals that the petitioner was absent from Court proceedings on 05.12.2019, 06.12.2019, 09.01.2020,

20.01.2020, 07.02.2020, 02.03.2020 and 19.03.2020 i.e. well beyond 30.11.2019.

For showing scant respect for the process of law and rather attempting to abuse the same by attempting to delay the proceedings launched against the petitioner the present petition is dismissed with costs which are quantified at Rs.20,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh.

26.02.2021

gk

(Deepak Sibal)

Judge

Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No