

Kapil

.....Petitioner

Vs.

State of Haryana

....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Sandeep Gahlawat, Advocate,
for the petitioner.

Mr. Munish Shama, AAG, Haryana.

Mr. Rajesh Duhan, Advocate,
for respondent no.2.

None for respondent no.3.

AMOL RATTAN SINGH, J. (Oral)

Case heard *via* video conference.

On April 08. 2021, the following order had been passed by this
court:-

“Notice of motion having been issued, other than learned State counsel, learned counsel for respondent no.2 has also appeared and submits that there are many other complaints under the provisions of Section 138 of the Negotiable Instruments Act, 1881, instituted against the petitioner and therefore he does not deserve to be admitted to anticipatory bail, with learned State counsel submitting that with him already having been declared to be a proclaimed offender, in any case he does not deserve to be so admitted, even as per settled law.

Whereas I agree with learned State counsel completely on that aspect, however learned counsel for the petitioner has pointed to copies of medical certificates annexed as Annexure P-5 collectively, to submit that the petitioner was admitted to a private hospital in Rohtak for viral hepatitis on 16.09.2020, with the last entry in this medical record seem to be one dated 01.01.2021, with him also permitted to join duty thereafter.

Since he is stated to be an employee of the Uttar Haryana Bijli Vitran Nigam Limited (UHBVNL), it first needs to be determined by this court as to whether the petitioner had remained

on leave on medical grounds or not during the said period, it thereby possibly being genuinely not possible for him to join investigation in terms of the order admitting him to anticipatory bail passed by the learned Addl. Sessions Judge earlier.

Consequently, the UHBVNL, Division Office, through its XEN no.2, Rajive Gandhi Bhawan, Power House Model Town, Rohtak, is ordered to be impleaded as respondent no.3 in the petition, with the Registry directed to carry out the necessary correction in the memo of parties. (Learned counsel for the petitioner has obtained the office address of the petitioner and conveyed it to the Reader of this court).

Notice be issued to the said respondent, dasti also, returnable on 19.05.2021.

The concerned XEN in the UHBVNL will file his own affidavit stating therein as to whether the petitioner remained on any kind of medical leave between September 2020 to January 2021 or not.

If he was not on medical leave, it will also be clarified as to whether he attended duties on any dates in the given period and if so, the details of all dates on which he attended duty will also be given.

Naturally, the respondent State would also verify the correctness of the medical record annexed as Annexure P-5 collectively with the petition.

Adjourned to 19.05.2021.

Interim order to continue till the next date of hearing only and specifically.

Any request for an adjournment made on that date by counsel for the petitioner, or his non-appearance, would entail immediate vacation of the interim order.

It is also made clear that if the newly added respondent no.3 is not shown to be served of the notice issued, the interim would stand vacated on that ground alone.”

Thereafter, on 05.10.2021, Mr.Kuldeep Tiwari, Advocate, had appeared for respondent no.3, i.e. the UHBVNL, and had submitted that in fact the petitioner was absent from duty from 01.09.2020 to 23.11.2020, without getting leave sanctioned from the competent authority and though he had subsequently applied for leave for that period, that application was rejected in view of the fact that the petitioner was a habitual absentee.

However, thereafter an affidavit dated 04.10.2021 has been filed by the XEN, Division No.-II, UHBNL, Rohtak, stating largely to the aforesaid effect but as regards the application of the petitioner, it is stated that the same was not processed on account of a short fall of medical leave in his leave account, as well as non-regularisation of the absence period.

Thereafter however, it has been reiterated that the petitioner is a habitual absentee and was even suspended from service on 25.09.2017, and he has not taken steps to get regularise his “absence period”, with 7 years of service still remaining unregularised as duty period, till date.

The aforesaid affidavit is ordered to be taken on record.

Though that may be an issue to be seen in any departmental/ service proceedings, the present petition is one by which the petitioner seeks to be admitted to bail in the event of his arrest on account FIR no.457, dated 10.12.2019, having been registered at Police Station Civil Lines, Bhiwani, alleging therein the commission of an offence punishable under the provisions of Section 174-A of the IPC.

Learned State counsel also refers to an affidavit of the DSP, Bhiwani, dated 01.10.2021, stating to the effect that upon query made from Dr. Raghuvender Chaudhary, it was found that the petitioner was not admitted to the hospital of the aforesaid doctor but was treated on “clinical basis”, with bed rest advised first from 01.12.2020 to 15.12.2020, with thereafter, on 15.12.2020, further complete bed rest advised for 15 days.

A photocopy of the said affidavit has been supplied by the learned State counsel today in court.

Though this court may have otherwise certain reservations with regard to the aforesaid advice of the doctor, with the petitioner never having applied for medical leave for the period in question, however, since this is only a petition seeking that the petitioner may be admitted to bail and he has already been so admitted, with the FIR in question still obviously to proceed on its own merits, without making any comment on the actual merits of the case, the petition is allowed, with the order dated 17.02.2021 made absolute on the same terms and conditions.

October 12, 2021

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES
Whether Reportable : NO