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

CRM-M-18333-2021

Date of Decision:22.09.2021

Varun BhogalPetitioner
Vs.
State of Punjab and anotherRespondents

2) CRM-M-19383-2021

Varun BhogalPetitioner
Vs.
State of Punjab and anotherRespondents

3) CRM-M-19384-2021

Varun BhogalPetitioner
Vs.
State of Punjab and anotherRespondents

4) CRM-M-19491-2021

Varun BhogalPetitioner
Vs.
State of Punjab and anotherRespondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. B.S.Toor, Advocate,
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

Ms. Swati Verma, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conference.

By these petitions, the petitioner seeks the concession of
'anticipatory bail' under the provisions of Section 438 Cr.P.C., upon COMA
nos.9042/2018, dated 02.07.2018, 9209/2018, dated 06.07.2018, 8764/2018,

dated 15.06.2018 and 9253/2018, dated 07.07.2018, having been instituted against him, alleging therein the commission of offences punishable under the provisions of Section 138 of the Negotiable Instruments Act, 1881, in each complaint.

Vide an order passed by this court on 06.08.2021, the petitioner had been directed to surrender before the trial court within one week and upon him doing so he would be admitted to interim bail to the satisfaction of that court.

Thereafter, on September 15, 2021, the following order had been passed by this court:-

“The petitioner having been directed to surrender before the trial court within one week of 06.08.2021 (as per the order recorded on that date), yesterday learned counsel for the complainant had submitted to this court that in fact he did not surrender in terms of that order and she would produce in court today the order passed by the trial court showing that he had not surrendered.

Today, she has produced in court today two orders passed by the trial court; one on August 20, 2021 in a case seen to be titled as “Dimond Seiko Exports vs. Krishan Gopal and Sons” with the number of that shown to be “9208-2018”, with the next date of hearing in that case shown to be 01.11.2021.

The other order produced by her is dated 08.09.2021, passed by the same court (learned JMIC, Ludhiana), in a case titled as “Dimond Seiko Exports vs. Krishan Gopal and sons”, bearing the number “9209-18”.

In the said order the reference of the order of this court dated 06.08.2021, passed in these petitions, has been given, with the learned Magistrate stating that the accused did not comply with the said directions and that with the arrest of the accused having been stayed only till 08.07.2021, passed by this court vide an order dated 17.05.2021 (passed in CRM-M-19383-2021), and with there being no further orders staying his arrest, his presence be procured through non-bailable warrants, with notice also issued to the person who stood surety for him, with the next date of hearing before that court in that complaint being 11.10.2021.

Learned counsel for the petitioner on the other hand submits that the trial court has confused the complaints and as a matter of fact the order staying his arrest till 08.07.2021, was filed in a completely different complaint and as regards the complainant in the context of which the order dated 06.08.2021 was passed by this court, the petitioner had duly appeared and surrendered before the courts

concerned on 13.08.2021, itself.

He however submits that he was not able to obtain the order as it was not 'updated' on the website of the trial court.

He seeks time to produce the said order.

Adjourned to 22.09.2021, with the trial court also directed to send a certified copy of all orders passed by that court between 13.08.2021 and 14.09.2021, in the following criminal complaints :-

1. COMA no.9042-2018 dated 02.07.2018;
2. COMA no.9209-2018 dated 06.07.2018;
3. COMA no.8764-2018 dated 15.06.2018;
4. COMA no.9253-2018 dated 07.07.2018;

Since the time period is short, the trial court is at liberty to send those orders through its official website via e-mail to the Registrar of this court, or by FAX.

Adjourned to 22.09.2021.

(A photocopy of this order be placed on the file of the each case).”

Pursuant thereto a report has been received from the JMIC, Ludhiana (through proper channel), annexing therewith orders passed by that court between 11.06.2021 and 06.08.2021, with learned counsel for the complainant today submitting that, having gone through those orders, she does not deny that the petitioner actually surrendered before the trial court and was admitted to bail pursuant to the order of this court dated 06.08.2021.

She however submits that the said order be made absolute only upon a condition being imposed that the petitioner would continue to remain on bail provided he appears on each date that he is summoned to appear before the learned trial court in all complaints instituted by respondent no.2 against him/his company, as in the past also he has been habitual of not appearing; and thereafter appearing only when non-bailable warrants were issued to secure his presence, thereby unnecessarily delaying proceedings.

That request is considered reasonable and consequently, while allowing these petitions and directing that the orders earlier passed admitting

the petitioner to interim bail be made absolute, that would be subject to the petitioner appearing before the trial court on each date that he is summoned; unless he cannot appear for any genuine reasons and an application to that effect is duly filed before the trial court which would thereafter be considered as regards the authenticity of the reasoning given in such application and only then the application for exemption would be allowed. Otherwise such an application would not be allowed if the trial court is of the opinion that the petitioner is only trying to delay proceedings.

Naturally, if the petitioner does not appear before the trial court in any of the complaints instituted against him/his company, as are subject matter of these petitions, the trial court would immediately 'cancel the bail' granted to the petitioner and forfeit his bail and surety bonds as per procedure.

(A photocopy of this order be placed on the files of the each case).

September 22, 2021

dharamvir

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES

Whether Reportable : NO