

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

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CRM-M-29405-2021.

Date of Decision: 28.07.2021.

Satish Kumar

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Ashok K. Sharma (Bhana), Advocate for petitioner.

Lalit Batra, J.(Oral)

Case has been taken up for hearing through Video Conferencing.

This petition under Section 438 Cr.P.C. for grant of pre-arrest bail has been moved by petitioner in case FIR No.346 dated 26.09.2018 under Section 174-A IPC, registered at Police Station Civil Lines, Jind, District Jind.

Learned counsel for the petitioner *inter alia* contends that allegations levelled in the FIR are altogether concocted, false and frivolous and there is no iota of truth therein. He further submits that as a matter of fact, complainant-Tata Motors had instituted a complaint NACT-509 of 2014 titled 'Tata Motors Vs. Satish' under Section 138 of Negotiable Instruments Act, against the petitioner at Jind, but the said complaint, vide order dated 18.11.2014 (Annexure P/3), was returned by the Court to complainant for filing the same in appropriate Court and then the said complaint was presented in the Court at Karnal, where after having received summons, petitioner had appeared in the Court and he was admitted to bail, vide order dated 20.05.2015. He further submits that thereafter above said

complaint was transferred from Karnal to Jind, vide order dated 16.07.2015, however, counsel for the petitioner informed him (petitioner) that his case has come to an end. He further urges that petitioner was not aware about pendency of above said complaint at Jind and further no notice was ever served upon him by the Court at any point of time. He further submits that petitioner was wrongly declared 'proclaimed person', vide order dated 05.05.2018 (Annexure P/7) and resultantly FIR No.346 dated 26.09.2018 under Section 174-A IPC has been registered against him at Police Station Civil Lines, Jind. He further submits that petitioner was not aware of Court proceedings at Jind and subsequent registration of FIR, as detailed above, as he was under the impression that matter pertaining to complaint, as detailed above, had already come to an end. He further submits that absence of petitioner before the Court was unintentional. He further submits that though petitioner has no nexus whatsoever with the alleged offence, he is ready to join investigation as and when called upon to do so by the Investigating Agency, thus, concession of pre-arrest bail may be extended to him.

Notice of motion.

At the asking of Court, Mr. Manish Dadwal, Assistant Advocate General, Haryana, accepts notice on behalf of the respondent-State. Complete copy of paper book has been supplied to him.

Learned State counsel while opposing the cause of petitioner has vehemently argued that when the complaint case, as detailed above, was transferred from Karnal to Jind, vide order dated 16.07.2015, petitioner alongwith his counsel was very much present in the Court at that time and his presence was duly marked and further both the parties to the complaint

were directed to appear before the Court at Jind. He further urges that in this scenario, petitioner was well aware of Court proceedings at Jind. He further submits that since despite issuance of notice/ bailable warrant/ warrant of arrest, appearance of petitioner could not be secured by the Court at Jind, resultantly proclamation under Section 82 Cr.P.C. was issued to secure his appearance, but petitioner did not adhere to the said notice of proclamation and, thus, vide order dated 05.05.2018 (Annexure P/7), he was declared 'proclaimed person' and in pursuant to said order, instant FIR was registered on 26.09.2018. He further urges that in view of above, as petitioner had intentionally disregarded the Court process and delayed the proceedings of complaint, as detailed above, thus, petitioner is not entitled for the concession of pre-arrest bail.

I have heard learned counsel for the parties and have carefully gone through the record of the case.

Without commenting anything on the merits of the case, lest it may prejudice the case of either of the parties, allegedly petitioner absconded from the process of Court and intentionally failed to appear in Court despite issuance of notices, bailable warrant and non-bailable warrants and notice of proclamation and ultimately, vide order dated 05.05.2018 (Annexure P/7), he was declared 'proclaimed person' by the Court concerned. Pre-arrest bail is not to be granted as a matter of routine/course in all cases. The grant or refusal of such bail depends on the variety of circumstances, the cumulative effect of which, should enter the judicial verdict. The power under Section 438 Cr.P.C. is to be exercised sparingly and in exceptional cases keeping into focus the facts and circumstances of each case. At the same time, it is well-settled that the order of anticipatory

bail cannot be allowed to circumvent normal procedure of arrest and investigation by the police. The Court has also to see that the investigation is in the province of the police and an order of anticipatory bail should not operate as an in-road into the statutory investigational powers of the police, in exercising the judicial discretion in granting the anticipatory bail. The Court should not be unmindful of the difficulties likely to be faced by the Investigating Agency and the public interest likely to be affected thereby in this relevant connection. Keeping in view entire scenario and nature of offence, no extra-ordinary ground has been made out in favour of petitioner for his entitlement of pre-arrest bail.

As a sequel to above, instant petition for grant of pre-arrest bail moved by the petitioner is dismissed.

(LALIT BATRA)
JUDGE

28.07.2021
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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No