

104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45731-2021
Date of Decision: 01.11.2021

DHARMESH

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.Vijay Sangwan, Advocate for petitioner
Mr.Sumit Jain, Additional Advocate General, Haryana

Deepak Sibal, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in Criminal Complaint No.125 dated 28.07.2015 (RT-162 dated 28.07.2015) under Section 138 of Negotiable Instrument Act, 1881 (for short, the Act) pending before the Court of Sub Divisional Judicial Magistrate, Mahendergarh.

On 28.07.2015, respondent No.2 instituted a complaint through which the petitioner was accused of having committed an offence under Section 138 of the Act. On the basis of the preliminary evidence led by respondent No.2, the Trial Court issued notice to the petitioner. However, all efforts to procure the petitioner's presence went in vain resulting in the initiation of proceedings for declaring the petitioner a proclaimed person. After nearly three years of institution of the complaint, on 13.06.2018, the petitioner appeared before the Trial Court for the first time and was admitted to bail. On 06.06.2019, without showing any cause, the petitioner again absented from Court proceedings resulting in the cancellation of his bail. Thereafter, warrants of his arrest were issued in pursuance whereof the petitioner appeared before the Trial Court and was

again granted bail. However, since the petitioner again did not appear before the Trial Court through order dated 15.02.2020 the petitioner's bail was again cancelled. Thereafter, when all efforts to secure his presence proved futile, proceedings were initiated to declare him a proclaimed person and at that stage, the petitioner sought anticipatory bail from the Trial Court on the rejection of which he has knocked the doors of this Court through the present petition for the same relief.

Learned counsel for the petitioner submits that the petitioner's non-appearance before the Trial Court was bona fide and the same was on account of the fact that his counsel, appearing for him before the Trial Court, had informed him that the Courts were not functioning due to Covid-19. It is further submitted that in future the petitioner undertakes to appear before the Trial Court on each and every date in his trial.

Over 6 years ago respondent No.2 had initiated proceedings against the petitioner seeking therein to punish him under Section 138 of the Act as a cheque of Rs.3 lakhs issued by the petitioner in respondent No.2's favour, on presentation, had been dishonoured for want of sufficient funds. The record reveals that in the first instance after great efforts by the Trial Court the petitioner's presence could be secured but only after nearly 3 years and that too only after initiation of proceedings to declare the petitioner a proclaimed person. On such appearance the petitioner was granted bail. However, the petitioner's hide and seek with the law did not end here as he again absented from the Court proceedings resulting in cancellation of his bail. Thereafter, the petitioner again appeared before the Trial Court and the Court again released him on bail. However, the petitioner's conduct of making himself scarce in his trial for primarily delaying the trial from the

Court proceedings and when after cancellation of his bail and forfeiture of his bail bonds proceedings for declaring him a proclaimed person were re-initiated, he now seeks anticipatory bail.

Above conduct of the petitioner clearly shows that he has scant respect for proceedings in the Court of law. He has been successfully hoodwinking appearance before the Trial Court for about 3 years at the initial stage of summoning and then absenting from Court proceedings on 2 occasions leading to the cancellation of bail. Thus, he has misused grant of bail on more than one occasion.

In the light of the above, the petitioner does not deserve to be granted the concession of anticipatory bail.

Dismissed.

In the facts and circumstances of this case where respondent No.2's complaint has been lying pending for the last over 5 years with the delay primarily attributable to the petitioner, the Trial Court is directed to dispose of the said complaint within two months from the date of receipt of a copy of this order, in accordance with law.

01.11.2021

gk

(Deepak Sibal)

Judge

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