

Rakesh Sharma

.....Petitioner

Vs.

State of Haryana

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Pawan Kumar Hooda, Advocate, for the petitioner.
Mr. Dhruv Sheoran, A.A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

On 06.01.2021, the following order had been passed by this court, reproducing therein the earlier order passed on 04.01.2021:-

“By this petition, filed under the provisions of Section 438 of the Cr.P.C, the petitioner seeks the concession of anticipatory bail in the event of his arrest in FIR no.1348, dated 03.11.2020, registered at Police Station Shivaji Nagar, District Gurugram, alleging therein the commission of an offence punishable under Section 174-A of the IPC.

On January 04, 2021, the following order had been passed:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

Learned counsel for the petitioner submits that the petitioner was never ever served of the summons and warrants issued to secure his presence before the trial court in the complaint registered against him under the provisions of Section 138 of the Negotiable Instruments Act,

1881, and that his actual address is the one given in the memo of parties, that being House no.33, Village Garhi, Harsaru, Block-I, District Gurugram, whereas the summons and warrants were issued to be served upon him at the address of his parents.

However, upon query to him as where his parents reside, he expresses his ignorance.

Adjourned to 06.01.2021, for learned counsel for the petitioner to take specific instructions in that regard.”

Today learned counsel for the petitioner has sent by way of a “Whatsapp” communication to the Reader of this court, copies of Aadhaar Cards of himself and his father, showing that though they are living in the same village, their house numbers are different.

On this court observing that it would be doubtful that the petitioner would not know of the notice served upon him with his father is living in the same village, learned counsel submits that the petitioner may be permitted to appear before the trial court to prove that he was actually never served of the notice issued in the complaint lodged against him, and in fact his father had also disowned him a long time ago.

Without making any comment whatsoever on the correctness of that contention, notice of motion is issued to the respondent-State, with Mr. B.V. Virk, learned DAG, Haryana, accepting notice at the asking of the court.

Adjourned to 16.03.2021.

In the meanwhile, the petitioner is directed to surrender before the learned trial court within one week and upon him doing so, he would be admitted to interim bail by that court to its own satisfaction, with the

petitioner to thereafter prove before that court as to whether he was served or not of the notices/warrants issued to secure his presence, in the complaint lodged against him.

The interim order to be passed by that court would continue to operate till the next date of hearing fixed before this court.

Today, learned counsel for the petitioner has forwarded to the Reader of this court by way of a 'Whatsapp' communication, an order passed by the learned Judicial Magistrate Ist Class, Gurugram, dated 03.02.2021, stating therein that he appeared before that court and was admitted to bail on furnishing personal bonds in the sum of Rs. 50,000/-, with one surety in the like amount.

That being so, this petition is disposed of with a direction to the trial court to consider the evidence led by the petitioner before that court, to show as to whether he was actually served of the summons/warrants issued to secure his presence before that court; and to thereafter determine as to whether he was actually so served or not and pass orders accordingly.

That is to say, obviously the proceedings in the FIR in question would continue, with the allegations therein to be proved/disproved as per the evidence led before the competent court.

In the meanwhile, the order dated 06.01.2021 is made absolute.

March 16, 2021

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Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes/No

Yes/No.