

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

CRM-M-25860-2021

Date of Decision: 21.02.2022

Ramesh Miglani

.....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Shalender Mohan, Advocate, for the petitioner.

HARNARESH SINGH GILL, J.

The petitioner seeks grant of anticipatory bail in case bearing FIR No. 863 dated 20.12.2019 under Section 174-A IPC, registered at Police Station Model Town, Rewari.

On account of his non appearance in the proceedings under Section 138 of the Negotiable Instruments Act, 1881 (for short 'the Act'), the petitioner was declared as proclaimed offender vide order dated 13.02.2019 passed by the trial Court. The petitioner challenged the said order by way of a revision petition before the Sessions Court. However, vide order dated 19.08.2021 passed by the Additional Sessions Judge, Rewari, the revision was dismissed, which led the filing of CRM-M-42967-2021 by the petitioner, before this Court, wherein notice of motion was issued vide order dated 24.11.2021. The said petition is now fixed for 28.09.2022. No interim protection, however, has been granted to the petitioner in the said petition.

The aforesaid factual position, thus, deciphers that the petitioner has not yet caused his presence before the trial Court in the proceedings under Section 138 of the Act. As noticed above, the present FIR has been registered for his non-appearance before the trial Court in the proceedings under Section 138 of the Act and him being declared as proclaimed offender, consequently.

The present petition came up for hearing before this Court for the first time on 8.07.2021 and since then, the petition has been adjourned for 10 dates on the request of the learned counsel for the petitioner. A perusal of the orders passed by this Court would show that on the last date of hearing i.e. 14.02.2022, learned counsel for the petitioner had sought time to go through the judgment rendered by the Hon'ble Supreme Court in Criminal Appeal No. 1209 of 2021- Prem Shankar Prasad Vs. State of Bihar and another, decided on 21.10.2021.

Today, learned counsel for the petitioner is unable to explain and satisfy this Court as to how the petitioner can be granted anticipatory bail in the FIR under Section 174-A IPC, when admitted is the fact that the said FIR was registered on account of his non-appearance before the trial Court in the proceedings under Section 138 of the Act and him subsequently being declared as proclaimed offender. Rather, learned counsel for the petitioner submits that the petitioner is 81 years old; visibly impaired; not the signatory to the cheques and is suffering from old age ailments. Still further, counsel for the petitioner places heavy reliance upon the order dated

06.06.2019 passed by the National Company Law Tribunal, to contend that all the Directors of the Company, including the petitioner, have become functus officio.

However, I do not find any merit in the said submissions. As noticed above, at the stage of grant of bail in the present case, the status of the proceedings in the complaint under Section 138 of the Act, has to be taken into consideration. This Court is of the considered opinion that the petitioner cannot be allowed to play both ways i.e. not to appear in the proceedings under Section 138 of the Act and seek anticipatory bail in the FIR registered for his non-appearance. The situation would have been entirely different, had the petitioner appeared in the proceedings under Section 138 of the Act.

Reliance of the learned counsel for the petitioner on the order dated 14.10.2021 passed in CRM-M-41861-2021, is of no help as in the said case, the order declaring the petitioners therein as proclaimed offenders in the matrimonial dispute.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

February 21st, 2022
ds

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No