

CRM-M-37503-2022

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

CRM-M-37503-2022

Date of decision:24.08.2022

Sushil Kumar

...Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Satbir Singh Gill, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in Complaint No.NIA/477 of 2019, titled as 'The Sirsa Central Coop. Bank Ltd. Vs. Sushil Kumar', under Section 138 N.I.Act, pending in the Court of learned Judicial Magistrate Ist Class, Sirsa.

As per the contents of the complaint, the petitioner availed personal loan to the tune of Rs.5 lakh from respondent No.2-complainant, but he had failed to repay the same, and that in order to discharge his liability, the petitioner had issued the cheque dated 10.01.2019, amounting to Rs.5,30,000/- in favour of respondent No.2. When the said cheque was presented for encashment, the same had got dishonoured.

Learned counsel for the petitioner contends that in pursuance of the order dated 12.01.2022 passed by learned Sessions Judge, Sirsa, the petitioner had been released on bail; that the petitioner had been regularly appearing before the trial Court; that on 25.02.2022, the petitioner made a

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statement that he had issued the cheque in question in favour of the complainant-bank and had recognized his signatures over it; that he had also admitted his liability and undertaken to make the payment of due amount; that on 22.03.2022, the petitioner could not appear before the trial Court, following which his bail was cancelled and his bail bonds had been forfeited to the State; that the petitioner has not been declared a proclaimed offender yet; that the petitioner is ready to appear before the trial Court, and that to show his *bona fide*, the petitioner is ready to make the payment of Rs.1 lakh to respondent No.2-complainant, by way of demand draft.

Notice of motion to respondent No.1-State only, at this stage.

On the asking of this Court, Mr. Ashok Singh Chaudhary, Addl. A. G. Haryana, accepts notice on behalf of respondent No.1-State, opposes the grant of bail to the petitioner.

I have heard the learned counsel for the parties.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua him. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would be justified to protect him from being arrested.

The petitioner absented himself from the court proceedings in the compliant case. He is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, the present petition is allowed.

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The petitioner is directed to surrender before the trial Court/Duty Magistrate, on 30.08.2022, subject to him making the payment of Rs.1 lakh to respondent No.2-complainant, by way of demand draft, and also depositing the costs of Rs.15,000/- with the District Legal Services Authority, Sirsa. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

24.08.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No