

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

223

CRM-M-47803-2022

Date of decision: 14.12.2022

TARSEM SINGH

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondent

CORAM : HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Rahul Singla, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, AAG, Haryana.

HARNARESH SINGH GILL , J.(ORAL)

Prayer is for grant of anticipatory bail in a criminal complaint bearing No.NACT/985/2016 dated 21.11.2016 titled M/s Longowal Enterprises Vs M/s Aryan Poultry, under Section 138 of the Negotiable Instrument Act, 1881.

Learned counsel for the petitioner submits that in the above noted complaint, the petitioner was granted regular bail on 30.11.2021; that, thereafter, the petitioner was regularly appearing before the Court concerned; that on 02.05.2022, due to some unavoidable circumstances, the petitioner could not appear before the Court concerned and accordingly, his warrants of arrest were issued; that the petitioner was declared as a proclaimed person on 07.09.2022 and that the provisions of Section 82 Cr.P.C. have not been complied with while declaring the petitioner as the proclaimed person.

Notice of motion was issued on 17.10.2022. However, no one has put in appearance on behalf of respondent No.2 today.

Learned State counsel submits that earlier also the petitioner failed to appear before the trial Court and proclamation was issued against the petitioner as he is habitual absentee.

I have heard learned counsel for the parties.

Since in the present case, petitioner has been declared as proclaimed offender on 07.09.2022 but as per learned counsel for the petitioner the petitioner will face the trial and is ready to surrender.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on 02.05.2022, due to some unavoidable circumstances and therefore, his non-appearance on the said date was unintentional. 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 the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Though the petitioner absented himself from the Court proceedings, yet he is now not required for any investigation or interrogation purposes and rather, 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, but without expressing any opinion on the merits of the case, the present petition is disposed of with a

direction to the petitioner to surrender before the trial Court/Duty Magistrate, subject to him depositing the costs of Rs.15,000/- with the concerned District Legal Services Authority. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

14.12.2022

P.Bhatt

Whether reasoned/speaking?

Whether reportable?

(HARNARESH SINGH GILL)

JUDGE

Yes/No

Yes/No