

CRM-M-48801 of 2022

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

CRM-M-48801 of 2022
Date of decision: 28.10.2022

Devender Kumar alias Devender Kumar Parasher

.....Petitioner

vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Vinay Puri, Advocate, for the petitioner.
Mr. G.S. Sandhu, Deputy Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Section 438 Cr.P.C. prayer has been made for grant of pre-arrest bail to the petitioner in complaint case No.NACT/89/2017 titled “Lakhvir Singh v. Devender Kumar” under Sections 138/142 of the Negotiable Instruments Act (for short 'the NI Act') dated 13.01.2022 pending in the Court of Judicial Magistrate Ist Class, Sri Anandpur Sahib, District Rupnagar.

Brief facts of the case are that respondent No.2-complainant filed a complaint against the petitioner under Section 138 of the NI Act alleging that petitioner was running M/s Sharma Transport Company and respondent No.2 had supplied some material to his company through his tipper No.PB-12-9870 and due to demonetization an amount of ₹4,00,000/- remained outstanding against the petitioner. Petitioner paid ₹50,000/- to the complainant in cash and issued cheque No.000007 dated

CRM-M-48801 of 2022

25.02.2017 for an amount of ₹3,50,000/-. However, on presentation by respondent No.2, said cheque was dishonoured with the remarks “Insufficient Funds” and “Drawers Signature Differs” and returned unpaid to respondent No.2 by his banker vide memo dated 20.03.2017. When respondent No.2 again approached the petitioner, petitioner requested him to again present the same after about one and a half month and assured that this time the cheque will be honoured. However, on presentation again the cheque was returned with the same remarks vide memo dated 05.05.2017. Respondent No.2 served legal notice dated 15.05.2017 to the petitioner through his counsel for payment of the cheque amount but despite receiving the same neither the petitioner replied the said notice nor made any payment to the complainant in discharge of his liability. Hence, respondent No.2 filed complaint under Section 138 of the NI Act.

Petitioner was summoned in the aforesaid complaint case. He appeared before the Judicial Magistrate Ist Class, Rupnagar, on 21.07.2018 and was released on bail.

I have heard learned counsel for the petitioner as well as learned State counsel and perused the paperbook.

Perusal of the file shows that the petitioner failed to appear before the trial Court since 02.12.2019. Moreover, petitioner had been regularly filing exemption applications with the aim to prolong the trial. The petitioner approached the Additional Sessions Judge, Rupnagar, for grant of anticipatory bail only after the proclamation proceedings were initiated against him, which shows that he was aware of the Court proceedings and had not been intentionally and deliberately appearing

CRM-M-48801 of 2022

before the Court only to delay the trial.

Keeping in view that the petitioner is intentionally absent from the Court proceedings since long and the proclamation proceedings are going on against him, this Court is not inclined to grant anticipatory bail to him.

Dismissed.

October 28, 2022
R.S.

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No