

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

202

CRM-M-3247-2023 (O&M)

Date of Decision: 7th July, 2023

N. Mohamed Jiyavudeen

... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Ms. Divya Arora, Advocate for the petitioner.
Mr. Rajiv Sidhu, Deputy Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This is a petition under Section 438 Cr.P.C. seeking anticipatory bail to the petitioner in FIR No. 0257 dated 27.7.2022 registered under Section 174-A IPC, 1860 at P.S. Sector-6 Bahadurgarh.

2. On 20.01.2023, the following order was passed :-

“Prayer is for grant of anticipatory bail to the petitioner in criminal case having FIR No.0257 dated 27.7.2022 registered under Sections 174-A IPC at Police Station Sector 6, Bahadurgarh.

Counsel for the petitioner inter alia contends that the petitioner has been wrongly declared as proclaimed person in the criminal complaint M/s Zeco Aircon Limited v. M/s Space Air under Section 138 of Negotiable Instruments Act which is pending in the Court of learned Judicial Magistrate, 1st Class, Bahadurgarh, District Jhajjar. He further submits that the petitioner is ready to join the investigation in this case and further, is ready to join the proceedings in the aforesaid criminal complaint also.

Notice of motion.

Ms. Harpreet Kaur, AAG, Haryana accepts notice on behalf of the State and submits that the petitioner has been declared proclaimed person in the criminal complaint filed by the opposite party under Section 138 of Negotiable Instruments Act and resultantly, FIR under Section 174- A IPC is registered against the petitioner.

Counsel for the petitioner apprised the Court

that the aforesaid complaint under Section 138 of Negotiable Instruments Act is with regard to dishonour of cheque worth Rs.1,05,641/-.

Now be listed on 3.7.2023.

In view of the above, the petitioner is hereby directed to join the investigation with the police and in case of arrest, the petitioner is to be released on interim bail by the arresting/investigating officer to his own satisfaction till the next date fixed in the present petition subject to deposit of Rs.20,000/- by the petitioner in the Registry of this Court within next 10 days.”

3. Learned State Counsel on instructions from ASI Ashok Kumar submits that petitioner has not joined the investigation.

4. Learned counsel for the petitioner after arguing for some time and realizing that in view of the Supreme Court decision in ***Prem Shankar Prasad vs. State of Bihar and another, 2021 AIR (Supreme Court) 5125***, petition under Section 438 Cr.P.C. is not maintainable as the accused was declared proclaimed person, seeks permission to withdraw the petition.

5. The prayer made is that the petitioner shall surrender before the Trial Court within two weeks from today and shall apply for regular bail, direction be issued for expeditiously decision of bail.

6. Dismissed as withdrawn with liberty as prayed for.

7. In the eventuality of the petitioner's surrendering within fifteen days from today and applying for regular bail, the Court concerned shall decide the petition on the same day.

8. Since the main case has been dismissed as withdrawn the pending application(s), if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

7th July, 2023