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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-4696-2023

Date of decision : 27.03.2023

RAKESH KUMAR

... Petitioner

Versus

STATE OF PUNJAB & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. B.S. Bhinder, Advocate
for the petitioner.

Ms. Ramta Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C.
is for the grant of anticipatory bail to the petitioner in case FIR No.260
dated 25.11.2021 (Annexure P-1) registered under Section 174-A, IPC,
at Police Station A-Division, Amritsar.

2. When this matter had come up for hearing initially as the
Court was not inclined to grant the concession of anticipatory bail, the
counsel for the petitioner on instructions submitted that the petitioner
was ready and willing to deposit the cheque amount within a period 04
weeks. Therefore, on 31.01.2023, the following order was passed:-

*“The prayer in the present petition under Section
438 Cr.P.C. is for the grant of anticipatory bail to the
petitioner in case FIR No.260 dated 25.11.2021 under
Section 174-A IPC at Police Station A-Division,
Amritsar.*

*The learned counsel for the petitioner submits
that the dispute under Section 138 N.I. Act pertain to*

Rs.2,00,000/- and the petitioner is ready and willing to deposit the said amount alongwith the interest within a period of four weeks from today. Notice of motion for 20.02.2023.

Dasti as well.

On the oral request of the learned counsel for the petitioner, the complainant-Naresh Kumar is impleaded as respondent No.2 in the array of the parties.

The Registry is directed to do the needful accordingly.

Let respondent No.2-complainant Naresh Kumar be also served for the date fixed.”

3. Thereafter, on 20.02.2023, the following order was passed:-

“Learned counsel for the petitioner seeks more time to comply with the order dated 31.01.2023.”

4. Today, Mr. B.S. Bhinder, Advocate has appeared on behalf of the petitioner and has filed his power of Attorney in place of Mr. H.P.S. Rakhra, Advocate, the initial counsel for the petitioner and states that he does not wish to make the payment but is ready to join proceedings.

5. I have heard the learned counsel for the parties.

6. A perusal of the record would reveal that the petitioner is an absconder and was declared a proclaimed offender in 2019 i.e. about 04 years ago. There is absolutely nothing to suggest that he had appeared in the proceedings under Section 138 of the Negotiable Instruments Act. On the contrary, he sought the concession of anticipatory bail before this Court and when the Court was not inclined, an undertaking was given that he wished to make entire payment. Despite seeking adequate time,

no payment was forthcoming. Today the counsel has been changed and an attempt has been made to re-argue the matter which had been argued at considerable length on 31.01.2023. It is quite apparent that the petitioner is a proclaimed offender. He has chosen not to appear before the Court in proceedings under Section 138 of the Negotiable Instruments Act. Even in the present proceedings, he has initially undertaken to make the entire payment but has now backed out.

7. In view of the aforementioned facts, I find no merit in the present petition and the same is dismissed.

8. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

27.03.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No