

CRM-M-27093 of 2023

2023:PHHC:077166

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

CRM-M-27093 of 2023

Date of decision: 26.05.2023

Balwinder Singh Sandhu

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. A.S. Dhindsa, Advocate,
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

1. This petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure seeking interim bail in case FIR No.62 dated 30.03.2008 under Sections 419, 170, 189, 507 IPC, registered at Police Station Phillaur, District Jalandhar, on medical grounds and taking care of his wife for two months.

2. The petitioner had earlier approached the Court of learned Additional Sessions Judge, Jalandhar, seeking regular bail, which was declined vide order dated 06.10.2022 (Annexure P-4). Thereafter, the petitioner filed CRM-M-48458 of 2022 seeking regular bail. The said petition was dismissed as withdrawn on 27.10.2022 and thereafter, another petition bearing CRM-M-58571-2022 was filed seeking regular bail. The said petition was dismissed by this Court vide order dated 20.12.2022 by recording the following finding:-

“Learned counsel for the petitioner submits that present

FIR was registered in the year 2008 and thereafter petitioner was released on bail by the Court below. He submits that petitioner is innocent and has been falsely implicated in this case. Petitioner faced the trial in this case for four years. Petitioner is an NRI and having his business in Canada, therefore, he is not able to stay in India for a long period. He further submits that nothing is to be recovered from the petitioner. He is behind the bars since 28.08.2022. He is ready to face the trial. Trial is likely to take a considerable time to conclude. Therefore, no fruitful purpose would be served by detaining the petitioner behind bars during trial.

Per contra, learned State counsel, appearing on advance notice, opposes the prayer for grant of regular bail to the petitioner by submitting that petitioner remained absent from the process of law for a long time and if grant bail, he can again abscond.

I have heard learned counsel for the parties and perused the record.

Perusal of file shows that petitioner absented himself on 15.05.2012 during the course of trial and was declared proclaimed offender on 09.05.2013. In gross violation of the conditions of bail, petitioner fled away to Canada. He remained absent for more than ten years, which resulted into delay in trial. Petitioner was arrested on 28.08.2022 and behind bars only for the last about four months. As per learned counsel for the petitioner, petitioner is an NRI having business in Canada. Moreover, five more cases are pending against the petitioner. Thus, in case petitioner is granted bail, there is every possibility that he may again violate the conditions of bail and fled away to Canada. Thus, at this stage, when the petitioner is behind bars only for the last about four months, this Court does not deem it appropriate to extend the concession of regular bail to him.

Finding the present petition devoid of any merit, the same is dismissed.”

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3. Now, the instant petition has been filed by the petitioner seeking interim bail on medical grounds and for taking care of his wife. The factum of filing earlier two bail applications before this Court has not been disclosed in the petition nor the orders have been attached, which amounts to concealment on the part of the petitioner. It is a well-settled proposition of law that a person who does not approach the Court with clean hands and played fraud with the Court, is not entitled for any relief. Reference in this regard can be made to the judgments of the Hon'ble Supreme Court in *Dalip Singh v. State of U.P. and others - JT 2009 (15) SC 201: (2010) 2 SCC 114* and *Amar Singh v. Union of India and others, 2011(7) SCC 69*.

4. Even otherwise, the instant petition seeking interim bail, is not maintainable as the petitioner has not approached the Court of learned Additional Sessions Judge, Jalandhar at first instance.

5. In view of the above, the present petition is dismissed with cost of Rs.15,000/- to be deposited with Punjab and Haryana High Court Lawyers' Welfare Fund within a month from today.

26.05.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No