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

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CRM-M-48903-2024 (O&M)

Date of decision: 27.09.2024

Samrat Saddi**...Petitioner****Versus****State of Punjab and another****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Ms. Ishita Negi, Advocate
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 for granting concession of anticipatory bail to him in case titled as Neeraj Passi vs. Samrat Saddi, filed by respondent No. 2/complainant under Section 138 of Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*) as well as for quashing of order dated 11.09.2023, passed by the trial Court, whereby the bail of the petitioner has been cancelled and arrest warrants have been issued against him.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that aforementioned complaint was filed by respondent No. 2 under Section 138 of N. I. Act against the petitioner, whereby the petitioner was summoned to face the trial. The petitioner appeared on 16.05.2023 before the

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Court concerned and was admitted to bail, subject to furnishing bail bonds to the tune of Rs. 50,000/- with one surety in the like amount. However, on the request of the petitioner as he was not able to furnish the personal and surety bonds at that time, the case was adjourned to 17.08.2023 for the said purpose and also for consideration on notice of accusation. However, he could not appear before the Court on 17.08.2023 and the case was then adjourned to 11.09.2023. He could not appear before the Court even on 11.09.2023, consequent to which, his bail had been cancelled by the trial Court and non-bailable warrants had been issued against him. Since the non-bailable warrants issued against the petitioner could not be executed, proceedings under Section 82 of Cr.P.C. had been initiated against the petitioner, which are now pending for 30.09.2024. The petitioner had filed an application for grant of anticipatory bail before the Court of learned Additional Sessions Judge, Jalandhar but the same had been dismissed, vide order dated 11.09.2024.

3. Learned counsel for the petitioner has argued that the aforesaid complaint has been filed by respondent No. 2 on false and frivolous grounds. On appearance before the Court concerned, the petitioner was granted concession of bail but since he could not arrange for personal bonds and surety, he could not appear on subsequent dates resulting into cancellation of his bail. Learned counsel for the petitioner has further submitted that the absence of the petitioner before the trial Court on the said dates was neither intentional nor deliberate but it was only due to the fact that he could not arrange for the personal bonds and surety. He undertakes to attend the Court proceedings, as and when he is required to do so. He is ready to abide by the terms and conditions to be

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imposed by this Court. It is, therefore, urged that the petition deserves to be allowed and the petitioner deserves to be granted concession of anticipatory bail.

4. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

5. Admittedly, the petitioner was granted concession of bail by the trial Court but subsequently, for the reasons mentioned above, his bail had been cancelled and non-bailable warrants had been issued against him and since the presence of the petitioner could not be procured despite issuance of non-bailable warrants, the proceedings under Section 82 of Cr.P.C. have been initiated against him, which are now pending for 30.09.2024. The petitioner, by way of filing the present petition, is seeking concession of anticipatory bail. However, the well settled proposition of law is that filing of an anticipatory bail cannot be treated as appearance before a Court by a person against whom proceedings under Section 82 of Cr.P.C. are pending. Reference in this regard can be made to a recent pronouncement of Hon'ble Supreme Court reported as '**Srikant Upadhyay and others v. State of Bihar and another, AIR 2024 SC 1600**', wherein, the accused filed an application for pre-arrest bail after coming to know about the fact that proceedings under Section 82 of Cr.P.C. were initiated against them. It was observed that such conduct of the accused did not entitle them to seek benefit of pre-arrest bail. Reference can also be made to '**Prem Shankar Prasad v. State of Bihar and another, (2022) 14 SCC 516**', wherein the Hon'ble Supreme Court took note of the fact that the accused was absconding and concealing himself to avoid service of warrant of arrest and moved application for grant of pre arrest bail after proceedings under Sections

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82/83 Cr.P.C. were initiated against him and rejected the plea of the accused for grant of pre-arrest bail. Reference can also be placed upon '*Lavesh v. State (NCT of Delhi), (2012) 8 SCC 730*', wherein it was observed that a person against whom warrant has been issued and is absconding or concealing himself in order to avoid execution of warrants and is declared as a proclaimed person in terms of Section 82 is not entitled to relief of anticipatory bail.

6. Faced with the same, learned counsel for the petitioner has restricted his argument only to the extent that the petitioner may be given liberty to surrender before the trial Court on the next date fixed before it.

7. Keeping in view the fact that the petitioner was granted concession of bail by the trial Court but he could not furnish the personal/surety bonds for the reasons best known to him and now the proclamation proceedings are pending against him for 30.09.2024 and also in view of the fact that the appearance of the petitioner before the trial Court would help in speedy disposal of the trial, the present petition is disposed of with a direction to the petitioner to surrender before the Court concerned on 30.09.2024, subject to order for grant of anticipatory bail, if any passed on his petition to be filed under Section 482 of BNSS. In the absence of any order for grant of anticipatory bail and on such surrender, the petitioner shall be liable to be remanded to judicial custody subject to any order for grant of regular bail to be passed by the concerned Court in accordance with law.

8. Needless to observe that in case any application is filed before the concerned Court for grant of regular bail, then the concerned Court shall be

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bound to dispose of the same expeditiously and that nothing in this order shall be treated as expression of any opinion on merits so as to bind or influence the concerned Court in disposal of the same.

9. Till the appearance of the petitioner before the trial Court, his arrest shall remain stayed.

10. Let a copy of this order be given *dasti* to learned counsel for the petitioner under the signatures of the Reader of this Court.

27.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No