

M/s Ranbir Textiles Vs. M/s Singhania Overseas

Present : Sh.HS Narang, Advocate for applicant Vikram Tangri
Sh.Vikas Gupta, Advocate for respondent/complainant.
(Virtual court through video conferencing)

Applicant/accused Vikram Tangri has filed this application u/s 438 Cr.PC for grant of anticipatory in a complaint case titled “M/s Singhania Overseas Vs. M/s Ranbir Textiles” under Section 138 of Negotiable Instruments Act filed by the respondent/complainant, which is pending in the court of Sh.Gurdarshan Singh, Ld. JMIC, Ludhiana.

Upon notice, respondent/complainant appeared through counsel and opposed the bail application.

I have heard learned counsel for the parties through video conferencing and have gone through the record of trial court.

Ld. Counsel for applicant has argued that the applicant had been regularly appearing before ld. Trial court. On 7.1.2020, the case was adjourned to 21.1.2020 but the date was wrongly noted down as 21.2.2020 which is also mentioned in the diary maintained by the counsel for the applicant. Ld. Counsel for applicant further submitted that on 21.2.2020, the applicant was out of station and was unable to appear in the court so he instructed his counsel to move application for exemption. The counsel appeared before the court and moved application for exemption then it was transpired that the case was not enlisted in the cause list. On making enquiry, the fact of wrong noting down of date of hearing came to the knowledge of the counsel and it was transpired that applicant was marked absent by the court on 21.1.2020 and his non bailable warrant was issued and now the applicant apprehends his arrest due to issuing of non bailable warrant by ld. Trial court. Ld. Counsel for applicant submitted that the absence of applicant on date fixed was not intentional nor willful but it was due to above said reason. He prayed for grant of pre-arrest bail.

On the other hand, learned counsel for respondent/complainant has submitted that the applicant intentionally absented from ld. Trial court. The plea taken by the applicant in the bail application is totally false. On 21.2.2020, there was holiday in the courts on account of Shivratri and there was no reason for the applicant to appear before the court on 21.2.2020. So, the version of the applicant taken in the bail application is totally false. As such, the applicant does not deserve for grant of anticipatory bail on the basis of false version. Ld. Counsel for applicant prayed for dismissal of the bail application.

After considering the respective submissions, this court finds that the applicant is facing trial in the aforementioned complaint case filed under Section 138 of Negotiable Instruments Act. The applicant was summoned in the above mentioned complaint on 19.3.2016. He failed to appear despite issuance of summons, bailable warrant and non bailable warrant. Ultimately, proclamation was issued against the applicant by ld. Trial court. After issuance of proclamation, the applicant appeared in the court on 27.8.2018 and was released on bail by ld. Trial court. On 21.1.2020, the complaint was fixed for serving notice of accusation upon the applicant/accused but the applicant failed to appear in the court. He was marked absent by ld. Trial court and his bail was canceled and his bail bond/surety bonds were forfeited by ld. Trial court and he was ordered to be summoned through non bailable warrant. Now, through the instant application, the applicant has sought concession of anticipatory bail on the ground that due to wrong noting down of next date of hearing as 21.2.2020 instead of 21.1.2020. The further plea taken by the applicant in the bail application that on 21.2.2020, the counsel for applicant appeared before ld. Trial court and moved application for exemption and then it was transpired that the applicant was marked absent on 21.1.2020. It is pertinent to mention here that on 21.2.2020, there was holidays in the court due to Shivratri and the courts were closed on that date. No doubt the plea taken by the applicant in the bail application seems to be false. But in the wake of pandemic Novel Corona Virus (COVID-19), no

purpose would be served by sending the applicant behind bars. Accordingly, the application in hand is hereby allowed and the applicant is directed to surrender before learned trial court on or before 15.9.2020 date fixed in the trial court and in the event of his doing so, he is ordered to be released on bail to the satisfaction of learned trial court/Duty Magistrate, subject to the conditions enshrined in Section 438(2) Cr.PC and also subject to payment of Rs.5000/- as cost out of which Rs.1000/- is to be deposited with DLSA, Ludhiana and receipt of such deposit be furnished in the trial court at the time of bail and remaining cost of Rs.4000/- is to be paid to the respondent/complainant. However, this order will not preclude learned trial court from initiating proceedings under Section 446 Cr.PC against the applicant. Copy of this order be sent to the court concerned. Record of Id. Trial court be also returned. This file be consigned to the record room.

Pronounced.
25.08.2020.

Arun Sehgal, STG Gr.I

(Gurbir Singh) PB0018
Sessions Judge, Ludhiana.