

Darshan Lal vs. Davinder Arora

IN THE COURT OF SH. VIJAY KUMAR, ADDL. SESSIONS JUDGE,
JALANDHAR, UID No: PB0154

Case No: BA 1790 of 2018

CNR No: PBJL010057962018

Date of Institution: 10.04.2018

Date of Order: 21.04.2018

Darshan Lal aged about 55 years son of Sh. Diwan Chand r/o H.No. 131,
Tara Singh Avenue, Basti Peer Daad Khan, Jalandhar.

...Accused/petitioner

Vs

Davinder Arora son of Sh. Ved Parkash r/o H.No. 212/2, near Sajjan
Palace, New Harbans Nagar, Jalandhar.

...Complainant

Present: Sh. Sunil Bhagat, Advocate counsel for applicant.

Present bail application has been filed by applicant Darshan
Lal u/s 438 Cr.PC for issuing directions to SHO/AO/IO to release him on
bail in the event of his surrender or arrest in the abovesaid complaint.

2. Brief facts of the bail application are that the abovesaid
complaint is pending in the court of Ms. Supreet Kaur, JMIC, Jalandhar.
Applicant further stated that earlier he was regularly appearing in the
court. Applicant further stated that on 03.07.2017 he had not appeared
before the court because his nephew Gaurav was suffering from cancer
and thereafter he expired. Applicant further stated that he had also
approached complainant for compromise and complainant assured that
compromise will be effected. Applicant further stated that thereafter he
was declared Proclaimed Person. He further stated that he is ready to
abide by the terms and conditions to be deposed by this court.

3. Thereafter notice was issued to respondent, but service was not effected. Thereafter record of learned Trial Court was called and perused.

4. I have heard learned counsel for accused/applicant and have gone through the case file carefully.

5. Davinder Arora had filed the complaint u/s 138 of N.I. Act on the ground that accused is known to the complainant and he took Rs.2,00,000/- from complainant for his personal need. Complainant further stated that to discharge his legal liability, accused issued the cheque in question and assured the complainant that cheque will be honoured, whenever the same was presented for collection. Complainant further stated that when he presented the cheque for collection, then same was dishonoured. Thereafter complainant issued a legal notice dated 27.06.2013 but inspite of legal notice accused had not made the payment. So, he filed the complaint. Thereafter accused was summoned by the court. Thereafter accused had not come present and he was declared Proclaimed Person vide order dated 18.02.2015. Thereafter accused appeared and notice of accusation served upon the accused. Thereafter complaint was fixed for complainant evidence. Thereafter complainant had not come present and again on 17.04.2017 applicant was declared Proclaimed Person. So, although learned counsel for applicant stated that nephew of the applicant was suffering from cancer and due to this reason, he could not appear in the court, but it is clear that earlier applicant had not appeared in the court and he was declared proclaimed person on 18.02.2015. Thereafter accused appeared and thereafter applicant had not

come present on 17.04.2017. Thereafter on 30.11.2017 applicant was again declared Proclaimed person. So, if nephew of the applicant was ill, then he can appear on the next date of hearing, but he became absent on 17.04.2017 and since then one year has been elapsed, but he had not come present before the court. So, earlier applicant was released on bail, but he misused the concession of bail. Moreover accused/applicant is a proclaimed Person, so, he is not entitled to anticipatory bail. So, application filed by accused Darshan Lal u/ 438 Cr.PC is hereby dismissed. Trial Court file be sent back immediately alongwith the copy of this order. Record of present application be consigned to Record Room.

Pronounced on:
21.04.2018
Geeta*

(Vijay Kumar)
ASJ/Jalandhar
UID NO: PB0154

Present: Sh. Sunil Bhagat, Advocate counsel for applicant.

Heard. Vide my separate detailed order of even date, bail application of accused/applicant Darshan Lal u/s 438 Cr.PC has been dismissed as detailed therein. Trial Court file be sent back immediately alongwith the copy of this order. Record of present application be consigned to Record Room.

Pronounced on:
21.04.2018
Geeta*

(Vijay Kumar)
ASJ/Jalandhar
UID NO: PB0154