

CNR NO.PBLD01-029347-2018

Ajay Maheshwari Vs. M/s Electronica Finance Ltd.

Present : Sh.Abhay Pal Bector, Advocate for applicant
Ajay Maheshwari
Sh.Nitin Gulati, Advocate for respondent/complainant.

Sh.Nitin Gulati, Advocate has filed power of attorney on behalf of respondent/complainant.

The applicant has filed this application for grant of anticipatory bail under Section 438 Cr.PC in a complaint case titled “M/s Electronica Finance Vs. M/s RS Fastners” bearing complaint no.50408 of 2013 filed under Section 138 of Negotiable Instruments Act by the respondent/complainant, which was pending in the court of Ms.Tejinder Preet Kaur, the then Ld. JMIC, Ludhiana.

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

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

Ld. Counsel for applicant has submitted that applicant was regularly appearing in the trial court but he was in judicial custody so he could not appear in the trial court and was declared proclaimed absconder. The absence of the applicant was neither intentional nor willful. Ld. Counsel for applicant prayed for grant of pre-arrest bail.

On the other hand, learned counsel for respondent/complainant has submitted that the applicant is a proclaimed offender and a proclaimed offender is not entitled for the relief of anticipatory bail. He prayed for dismissal of the bail application.

After considering the respective submissions, this court finds that the applicant was facing trial in the aforementioned complaint case filed under Section 138 of Negotiable Instruments Act. He was granted concession of bail. However, he absented from learned trial court on 21.11.2015 and his bail was canceled and he was ordered to be summoned

through non bailable warrant of arrest and ultimately proclamation was issued against the applicant and he was declared proclaimed absconder by learned trial court vide order dated 9.3.2016. The custody certificate produced by the counsel for applicant shows the period of custody is with effect from 28.7.2017 to 8.12.2018 whereas the applicant absented from the trial court on 21.11.2015. So, the contention of the applicant that he was in judicial custody at the relevant time is not tenable. Further, there is no proper explanation why he did not surrender in the court on issuance of non bailable warrant and proclamation. The absence of the applicant was intentional. The applicant is a proclaimed absconder. It is settled law that when accused is absconding and is a proclaimed person, then there is no question of granting him relief of anticipatory bail. So, keeping in view of these circumstances, this court is of the considered opinion that the accused/applicant does not deserve for grant of anticipatory bail. So, I do not find any merit in the bail application and the same stands dismissed. Record of trial court be returned. File of the bail application be consigned to the record room.

Pronounced in open court.

11.01.2019

Arun Sehgal, STG Gr.I

(Gurbir Singh) PB0018

Sessions Judge, Ludhiana.