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

CRM-M-28932 of 2015

Date of decision: August 28, 2015

Surinder Rana

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Sanjay Verma, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 24.07.2015.

Learned counsel for the petitioner has submitted that warrant of attachment could not be issued qua the property of the petitioner without declaring him a proclaimed offender.

Petitioner had faced trial in a complaint filed by the respondent No.2 under Section 138 of the Negotiable Instruments Act, 1881 ('Act' for short). Trial Court vide judgment/order dated 31.05.2012/02.06.2012 ordered the conviction and sentence of the petitioner under Section 138 of the Act. Against the said judgment/order of his conviction and sentence, petitioner preferred an appeal. However, petitioner absented on 12.01.2015 before the Appellate Court. Consequently his bail was cancelled and warrants of arrest were issued for 19.01.2015. The warrants of arrest of the petitioner were received back unexecuted from 19.01.2015

onwards.

On 24.07.2015, following order was passed by the Appellate Court:-

“6. In view of the above mentioned conduct it is established that the presence of appellant/accused Surender Rana cannot be procured in the court unless some coercive steps are taken and therefore, this court is convicted that in addition to issuing proclamation, the provisions enshrined under Section 83 Cr. P.C. should also be invoked. Hence, it is hereby ordered that warrant of attached of property of appellant/accused be issued for 10.08.2015. The SHO concerned is directed to execute the warrant of attachment of property of appellant/accused by that date and submit report in the court.”

In the present case, petitioner is aware of the pendency of the appeal filed by him but has absented before the Appellate Court. The warrants of arrest issued by the Appellate Court to summon the petitioner have proved futile. In order to secure the presence of the petitioner before the Appellate Court, the impugned order was passed. Petitioner instead of surrendering before the Appellate Court has approached this Court by challenging the impugned order.

Since the petitioner has failed to appear before the Appellate Court, no ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

August 28, 2015