

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

(124)

**CRM-M-35036-2015 (O&M)
Decided on: November 03, 2015.**

Gorakh Lal Goyal

.... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Rahul Sharma, Advocate, for the petitioner.

M.M.S. BEDI, J (ORAL)

On account of petitioner having absented on 02.06.2015 in a private complaint, non-bailable warrants have been issued against the petitioner. The petitioner had filed an application for grant of pre-arrest bail which was disposed of on 30.09.2015 directing the petitioner to surrender before the trial Court on 05.10.2015 and to move an application for regular bail with a further direction it would be decided on the same day.

Learned counsel for the petitioner submits that the petitioner was present in the Court premises on said date in matters pertaining to his family members but for bona fide reasons he could not appear before the Court.

I have considered the facts and circumstances of the case.

The petitioner is facing proceedings under Section 138 of the Negotiable Instruments Act pertaining to a cheque where the subject matter of the cheque is Rs. 10 lacs. Prima facie, unnecessary harassment is being caused to the complainant.

Without expression of any opinion on merits, at this stage, regarding the sufficiency of the reasons for non-appearance of the petitioner, I deem it appropriate, in the interest of justice, to strike a balance between the right of liberty of the petitioner and inconvenience caused to the complainant taking into consideration the provisions of Section 309 Cr. P.C.

The petition is allowed in limine with an objective to save the complainant from unnecessary harassment, litigation expenses and delay by setting aside the orders dated 02.06.2015 and 30.09.2015 passed by the trial Court and the Additional Sessions Judge, Ludhiana and issuing a direction that the petitioner will put in appearance before the trial Court within a period of one week from today or on the next date of hearing whichever is later. Petitioner will be released on bail on his furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court subject to an additional condition that he will pay a sum of Rs.15,000/- to the complainant as costs of adjournment, which will be deemed to be costs under Explanation (II) of Section 309 Cr.P.C. It is made clear that in case of non-compliance of this order, no further indulgence would be shown to the petitioner.

(M.M.S. BEDI)
JUDGE

November 03, 2015
harsha