

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM M-43051 of 2015

Date of Decision: December 19, 2015

Kamal Kumar

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

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

-.-

Present:- Mr.Raman Goklaney, Advocate
for the petitioner.

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

Petitioner seeks the concession of pre-arrest bail in proceedings under Section 138 of the Negotiable Instruments Act launched by respondent No.2- LIC Housing Finance Limited on account of a cheque worth about Rs.11 lacs issued by the petitioner having been dishonoured.

Counsel for the petitioner has submitted that the petitioner, no doubt has obtained loan and that he intends to repay the same but on account of he having meet with an accident, he could not appear before the Court after August 11, 2015.

An application filed by the petitioner for pre-arrest bail has been allowed directing the petitioner to surrender before the trial Court and to move an application for regular bail which has been directed to be decided within a period of three days. The said directions appear to have not been complied with by the petitioner apprehending arrest and detention for a period of three days or more.

I have considered the facts and circumstances of this case. The complaint is pending since 2013. Without expression of any opinion regarding the reasons for non-appearance which resulted in the issuance of proclamation under Section 82 Cr.P.C., I am of the consideration opinion that striking a balance between the liberty of the petitioner and the genuine claim of the complainant/ respondent, the ends of justice would be adequately met in case the petitioner is permitted to appear before the Court simultaneously protecting his liberty and compensating the complainant for unnecessary harassment caused due to the conduct of the petitioner.

This petition is allowed in limine with an objective to avoid the unnecessary harassment and litigation expenses for the complainant-respondent. It is directed that the petitioner will put in appearance before the trial Court on January 2, 2016, the date already fixed and will pay a cost of Rs.10000/- in the shape of bank draft in the name of the complainant. In case of petitioner's doing so, he shall be released on bail on his appearance on January 2, 2016 to the satisfaction of the trial Court. The bank draft of Rs.10000/- will be handed over to the complainant and the amount would be

deemed to be cost of unnecessary adjournments granted on account of absence of the petitioner and would fall under Explanation 2 to Section 309 Cr.P.C.

Since this order has been passed in limine to avoid unnecessary litigation expenses to the complainant, it will be open to the complainant to approach this Court for review, if the order is not acceptable to it. It is made clear that in case the petitioner fails to appear on January 2, 2016, this petition will be deemed to have been dismissed.

December 19, 2015
sanjay

(M.M.S.BEDI)
JUDGE