

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

- 1. CRM-M-22997 of 2017**
 - 2. CRM-M-23180 of 2017**
- Date of Decision: 24.07.2017**

Kulwinder Kumar

....Petitioner

VERSUS

State of Punjab and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. Naiya Gill, Advocate
for the petitioner in both the petitions.

SURINDER GUPTA, J.(Oral)

Present petitions have been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in Complaint cases bearing Nos. 516 dated 15.04.2014 and 579 dated 29.05.2014 for the offence punishable under Section 138 of Negotiable Instruments Act titled “Pawan Kumar Bhatnagar vs. Kulwinder Kumar” and “Dharminder Singh vs. Kulwinder Kumar”, pending in the Court of Judicial Magistrate, Ist Class, Derabassi.

Heard.

Notice of motion.

On asking of the court, Mr. Ajay Pal Singh Gill, DAG, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the cases is available with him.

Learned counsel for petitioner submits that the petitioner was facing trial in complaints filed by Pawan Kumar and Dharminder Singh for offences punishable under Section 138 of Negotiable Instruments Act. In

2014, in a complaint case instituted against him, he absented during trial and was declared proclaimed offender. Now he has been arrested and is in custody for the last about five months.

Keeping in view the fact and nature of case and to avoid unnecessary expenses of respondent no. 2, this petition has been taken up without notice to him.

The offence punishable under Section 138 of Negotiable Instruments Act is bailable offence. From the submission of learned counsel for the petitioner, it appears that the petitioner has misused the benefit of bail allowed to him. However, keeping in view the fact that he is in custody for the last about five months and the maximum sentence provided under the provisions of Negotiable Instruments Act, both the petitions are allowed. Petitioner-Kulwinder Kumar is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

July 24, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No