

Criminal Misc. No. M- 25648 of 2017 (O&M)

Date of decision : September 07, 2017

Rihana

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILLPresent: Mr. Sunil K. Nehra, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Kunal Dawar, Advocate
for the complainant/respondent No. 2.

LISA GILL, J.

Prayer in this petition is for quashing of order dated 11.07.2017 passed by the learned Judicial Magistrate First Class, Faridabad (Annexure P-7).

Brief facts of the case are that the petitioner was afforded the concession of anticipatory bail on 23.02.2016 (Annexure P-3) by this Court in CRM-M-18567 of 2017. It was ordered that interim bail afforded to the petitioner vide order dated 31.05.2016 passed in the matter is made absolute subject to the condition that two FDRs of ₹2.5 lakhs each in the name of two minor daughters of the petitioner be deposited with the learned trial Court within one month. It was further directed that the said FDRs be released by the learned trial Court to the complainant.

Admittedly, the FDRs were not deposited well within the stipulated time. The petitioner filed an application for extension of time to do the needful (Annexure P-4). Extension was afforded by this Court on

15.05.2017 (Annexure P-5). The petitioner was permitted to submit the FDRs in question before the learned trial Court within a period of four weeks.

However, necessary steps were again not taken by the petitioner. The learned Judicial Magistrate First Class passed the impugned order dated 11.07.2017 observing that in view of non-compliance of orders of this Court, the petitioner's bail stood cancelled and non-bailable warrants were issued against the petitioner. Present petition has been filed challenging the said order dated 10.07.2017.

During the pendency of this petition and as per order dated 21.07.2017 passed in this case, a sum of ₹5 lakhs has been deposited before the learned trial Court on 24.07.2017. Earlier two FDRs in the sum of ₹2.5 lakhs each in favour of two minor daughters were produced in Court on 21.07.2017, however, an objection was raised by the complainant that the father is mentioned as the guardian whereas, it is the mother who should be nominated as a guardian. Thereafter, a sum of ₹5 lakhs has been deposited on 24.07.2017.

Respondent No. 2 undertakes that the said amount of ₹5 lakhs shall be converted into two FDRs of ₹2.5 lakhs each in favour of two minor daughters of the complainant and the petitioner's son. Photocopies of the said FDRs shall be submitted before the learned trial Court by her. Respondent No. 2 further undertakes not to have these FDRs released till both the children attain majority. However, the interest thereon would be used by her for their maintenance. It is submitted that in view of the deposits so made, respondent No. 2 has no objection if this petition is allowed.

Accordingly, this petition is allowed. Order dated 11.07.2017 passed by the learned Judicial Magistrate First Class, Faridabad is set aside in view of the subsequent events as have taken place subject to submission of fresh bail bonds and surety by the petitioner. It is further directed that amount of ₹5 lakhs deposited before the learned trial Court on 24.07.2017 be released to the complainant/respondent No. 2 against adequate proof of identity. In terms of the submission of respondent No. 2 before this Court, the said amount shall be converted into two FDRs of ₹2.5 lakhs each in favour of two minor daughters of the complainant. Photocopies of the said FDRs be submitted before the learned trial Court within twenty (20) days of release of the said amount.

September 07, 2017
rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No