

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

CRM-M-10120-2019 (O&M)

Date of decision-05.03.2019

Rajender Singh Panghaal

...Petitioner

Vs.

State of U.T.Chandigarh and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vivek Sethi, Advocate for the petitioner.

MANOJ BAJAJ, J.

CRM-7616-2019

Application is allowed as prayed for.

Main case

This petition has been filed under Section 482 Cr.P.C for challenging the order dated 25.02.2019 (Annexure P-9) whereby the petitioner has been declared as a proclaimed offender by the trial Court and complaint case under Section 138 of Negotiable Instruments Act, 1881 brought by complainant (respondent No.2).

Learned counsel for the petitioner contends that after passing of the summoning order, the petitioner (accused) appeared before the trial Court and continued to appear regularly till 05.12.2018. During the proceedings before the trial Court, part payment as agreed between the parties was also made and thereafter, the matter was fixed for 05.12.2018 for making the remaining payment. However, on the said date, the petitioner had to suddenly go out of town to attend his ailing relative and had instructed his

CRM-M-10120-2019 (O&M)

counsel to move the necessary application for seeking exemption from appearance before the Court. However, the said application could not be filed and the Court proceeded to pass the order cancelling the bail and forfeited the bail bonds. Subsequently, proceedings under Section 82 Cr.P.C were initiated and at the same time, the petitioner resorted to the remedy under Section 438 Cr.P.C for pre-arrest bail. The said petition was dismissed on 07.02.2019 and the petitioner filed CRM-M-9208-2019 before this Court. Thereafter, petitioner sought liberty from the Court to withdraw the said petition, to challenge the order dated 25.02.2019.

After hearing learned counsel for the petitioner and the perusal of the petition, it is not necessary to issue notice to the complainant at this stage as it shall be causing extra burden on the respondent/complainant.

It is evident from the zimni orders which are on record, that the complainant was regularly appearing before the Court, except for one absence i.e.05.12.2018. Many a times a person/accused can be prevented by sufficient reason to put an appearance before the Court on a given date and therefore, it necessarily cannot be construed as a deliberate and willful absence.

In the case in hand, even the part payment was made by the petitioner and the matter was fixed for making remaining payments, however, the Court has proceeded to pass the extreme order on the said date. The explanation offered appears to be justified and the same is accepted.

CRM-M-10120-2019 (O&M)

Consequently, in view of the above, petition is allowed and the impugned order dated 25.02.2019 (Annexure P-9) is set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds.

Disposed off.

(MANOJ BAJAJ)
JUDGE

05.03.2019
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No