

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

**CRM-M-40402-2019
Decided on : 27.09.2019**

Kuldeep Verma

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Gaurav Grover, Advocate
for the petitioner(s).

MANJARI NEHRU KAUL, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for grant of Anticipatory Bail, in Criminal Appeal No. 130 of 2018 in Criminal complaint No. 350 of 2013, under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the NI Act'), whereby, Ld. Additional Sessions Judge, Fatehabad, has issued the Non-Bailable Warrants of Arrest against the petitioner.

Learned counsel for the petitioner submitted that during the pendency of the appeal, which the petitioner had preferred to impugn the judgment of conviction of the Ld. Trial Court under Section 138 of the NI Act, vide which he was sentenced to simple imprisonment of two years, he was unable to appear before the Ld. Appellate Court, Fatehabad on 03rd August, 2018, as he was to attend the marriage of his brother-in-law in Zirakpur. He further submitted that on the date fixed before the Ld. Appellate Court, an application too had been moved seeking exemption from personal appearance. However, the Ld. Appellate Court dismissed his

application seeking exemption on the ground that the date of marriage of his brother-in-law did not find any mention in the said application. Consequently, the bail of the petitioner was cancelled as well as the bail bonds and surety bonds were forfeited to the State. He submits that his absence before the Ld. Appellate Court was *bona fide* and not willful.

Notice of motion.

Mr. Arun Beniwal, DAG, Haryana, who is present in Court, accepts notice on behalf of the State. A copy of the complete paper book has been handed over to the learned State counsel.

Heard.

Ld. Appellate Court has seemingly taken an adverse inference *qua* the absence of the petitioner on the ground that he had sought exemption on several dates before the Trial Court as well. It would be pertinent to notice that the trial already stood concluded and the exemptions were granted by the Trial Court only after recording its satisfaction *qua* the same. The Ld. Appellate Court has passed the impugned order in undue haste and the same is thus not sustainable. It need not be overemphasized that once the concession of bail or suspension of sentence has been extended to a convict/accused, the Court should resort to the extreme step of recalling the concession and cancelling the same only in the eventuality of very compelling circumstances. The explanation for non-appearance before the Appellate Court appears to be reasonable and the same is accepted.

Keeping in view the facts and circumstances of the case, the present petition is disposed of and the orders dated 21.01.2019 and 05.07.2019 (Annexures P-1 & P-2, respectively) of the Ld. ASJ, Fatehabad, are hereby set aside. Petitioner is directed to surrender before the Trial

Court/Duty Magistrate concerned within seven days from today and upon his doing so, he shall be admitted to bail on furnishing of fresh bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

(MANJARI NEHRU KAUL)
JUDGE

September 27, 2019

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*