

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

CRM-M No.49502 of 2019 (O&M)
DATE OF DECISION : 22nd NOVEMBER, 2019

M/s. Marshal Mfg & Sxports, & others

.... Petitioners

Versus

State of Haryana & another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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Present : Ms. Kusum Raj, Advocate for
 Mr. Yash Dev Kaushik, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

Present petition has been filed seeking quashing of the Order dated 19.11.2018 (Annexure P-3), passed in Complaint No.3055 of 2015 dated 07.07.2015 under Section 138 of the Negotiable Instruments Act, whereby the application for exemption from personal appearance of the petitioners, was dismissed and bail of the petitioners was also cancelled and order dated 06.09.2019 (Annexure P-4), vide which Criminal Revision filed by the petitioners was dismissed.

It is contended by the counsel for the petitioners that the petitioners were very much appearing before the trial court in this case. Even the substantial amount, out of the cheque amount, has also been paid to the complainant. The petitioners have also preferred another set of petitions bearing Criminal Misc. Nos. M-30698, 30699, 30701 and 30702 of 2016, in which the notice of motion was issued by the High Court along with the notice regarding stay. Those cases are still pending. Hence, no effective proceedings were being undertaken before the court below. Accordingly, on some dates, the petitioners moved application for exemption from personal appearance. On earlier occasions, the trial court

had been gracious enough to exempt the personal appearance of the petitioners. However, on 19.11.2018, the court below had declined the application for exemption for personal appearance. As a result, the bail granted to the petitioners was cancelled. The warrants of arrest were issued against the petitioners. The case was adjourned for 17.12.2018. Thereafter, although the petitioners apprehended their arrest, however, the court below has again been gracious enough not to declare the petitioners as proclaimed persons so far. The petitioners had challenged the order of cancellation of bail by way of revision petition before the Additional Sessions Judge, Faridabad. However, the said revisions has also been dismissed as non-maintainable vide order dated 06.09.2019. Hence, the petitioners are facing imminent threat of arrest. Still further it is submitted that the absence of the petitioners from the trial court was not intentional. In any case, the petitioners are now intending to appear regularly before the trial court. The petitioners have no intention to flee from the course of justice. The only prayer is that the petitioners be protected against their arrest.

At this stage, this court does not find any necessity to issue notice to respondent No.2

Notice of motion to State of Haryana only.

Mr. M. K. Sangwan, Deputy Advocate General, Haryana, accepts notice on behalf of the State. He submits that the State has no objection to the protection being given to the petitioners, subject to the condition that the petitioners will appear before the trial court.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, it would not be unjustified to grant protection to the petitioners; with a further direction to them to appear before the trial court, however, by putting them to some appropriate financial burden.

Accordingly, the present petition is allowed subject to the petitioners appearing before the trial Court on or before 04.12.2019, and further subject to deposit of ₹25,000/- as cost with the Poor Patient Welfare Fund, PGI, Chandigarh. It is further directed that in case the petitioners so appear before the trial Court on or before 04.12.2019 then they shall be released on bail, pending trial, on their furnishing bail bonds/sureties to the satisfaction of the trial Court/Duty Magistrate.

However, it is clarified that the petitioners shall be released on bail only, if they produce before the court below, the receipt of having deposited the cost, as mentioned above.

It is further ordered that since the complaint is of the year 2015, therefore, the disposal of the complaint has already been delayed inordinately. Hence, it is directed that the trial court shall dispose of the trial itself, in accordance with law, within a period of next four months. It is further ordered that the trial court shall ensure that the trial is not permitted to be delayed any further by frivolous or unnecessary applications; moved by either of the parties.

22nd NOVEMBER, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>