

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

CRM-M-6943-2020
Date of Decision:-17.2.2020

KULDEEP

... Petitioner

Versus

SUBHASH CHAND AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Shashi Kumar Yadav, Advocate
for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court challenging order dated 16.9.2019 (Annexure P-6) and also order dated 29.1.2020 (Annexure P-10) vide which non-bailable warrants have been issued against the petitioner as well as his surety.
2. A few facts, necessary to notice for disposal of this petition are that the petitioner was tried by the Court of learned Judicial Magistrate Ist Class, Faridabad for offence under Section 138 of Negotiable Instruments Act and was convicted vide judgment dated 15.12.2018 (Annexure P-1). The petitioner challenged the aforesaid judgment by way of filing an appeal before the Court of learned Additional Sessions Judge, Faridabad wherein while ordering for his release on bail during pendency of appeal, the learned Lower Appellate Court directed the petitioner to deposit an amount of ₹1,12,500/- vide order dated 19.01.2019 (Annexure P-3). The petitioner

challenged the aforesaid order by way of filing CRR-721-2019 wherein notice of motion was issued and a direction was issued that the condition of deposit of the amount as contained in the impugned order shall remain stayed. However the said revision petition was dismissed on 4.4.2019 (Annexure P-4).

3. It appears that at the time of dismissal of CRR-712-2019 on 4.4.2019, the appeal pending before learned Additional Sessions Judge, Faridabad already stood adjourned to 16.9.2019. Since the petitioner did not appear before the Court of learned Additional Sessions Judge, Faridabad on 16.9.2019, the trial Court ordered for cancellation of his bail and issued non-bailable warrants.
4. Learned counsel for the petitioner has submitted that the petitioner remained under a wrong impression regarding the date and subsequently when the petitioner came to know about the same, he prepared a draft for ₹1,12,500/- (Annexure P-7) but the same somehow could not be deposited in the Court on account of error in spelling of the complainant which was mentioned incorrectly as “Subash Chand” instead of “Subhash Chand”. Learned counsel has further submitted that the petitioner has now prepared a draft with the correct name of the complainant and copy of the same has been annexed with the petition. It has been submitted that the trial Court has again issued fresh warrants vide order dated 29.1.2020 for 18.3.2020 for securing presence of the petitioner and also of his surety.
5. Having regard to the facts and circumstances of the case and while bearing in mind that the petitioner had in fact prepared a draft in favour of the complainant on 20.11.2019, but somehow the spellings were not mentioned

correctly, a lenient view is taken in the matter. The impugned orders are hereby set aside and the petitioner is directed to appear before the learned lower Appellate Court within one week from today. The Court concerned shall release the petitioner on bail subject to his furnishing adequate surety and bail bonds to its satisfaction. The Court concerned shall be at liberty to impose any such condition which it may deem fit, so as to ensure regular appearance of the petitioner. However, the petitioner immediately upon appearance before the Court concerned shall deposit an amount of ₹1,12,500/- as directed vide order dated 19.1.2019 (Annexure P-3).

6. This order is however being passed subject to condition that the petitioner pays an amount of ₹8,000/- as costs to the complainant, before the lower Appellate Court.

(GURVINDER SINGH GILL)
JUDGE

17.2.2020
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No