

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 10163 of 2020

Date of Decision: 06.3.2020

Gurmeet Singh Sawhney

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Manish Soni, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

This is a petition under Section 482 Cr.P.C. for setting aside the order dated 3.2.2020 (Annexure P-5) passed by the Additional Sessions Judge, Gurugram in Criminal Appeal No. 385 of 2017 dated 25.8.2017 titled 'Bhupinder Singh and others versus State of Haryana and another', filed against the judgment passed in complaint under Section 138 of the Negotiable Instruments Act, 1881, vide which the application moved by the petitioner for exemption from personal appearance has been declined and accordingly bail of the petitioner was cancelled and his bail bonds were forfeited to the State and non-bailable warrants were issued against him.

Learned counsel for the petitioner submits that it was only on 3.2.2020, the petitioner moved an application for exemption from personal appearance as his father-in-law had passed away on 23.1.2020 and his mother-in-law was not well and the said application was declined. As per the learned counsel for the petitioner, the petitioner had been regularly appearing before the Appellate Court and the trial Court as well and it was

because of unavoidable reasons, he could not appear before the Appellate Court on 3.2.2020 and non-bailable warrants were issued against him.

Notice in this case is not being issued as this would further delay the matter.

In the present case, the petitioner had been regularly appearing before the Appellate Court but could not appear before the Appellate Court on 03.2.2020 as his father-in-law had expired on 23.1.2020 and his mother-in-law was not well.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains 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.

Without commenting on the merits of the case, this petition is disposed of with a direction to the petitioner to surrender before the Appellate Court within 10 days from today. On doing so, he shall be released on bail subject to his furnishing fresh bail bond/surety bonds to the satisfaction of the Appellate Court and further subject to payment of Rs. 10,000/- as costs to the complainant.

(HARNARESH SINGH GILL)
JUDGE

March 06, 2020
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No