

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRM-M-32413-2020

Date of decision: 13.10.2020

Atul Kumar

.....Petitioner

versus

Lakhwinder Singh

....Respondents

CORAM: Hon'ble Mr. Justice Girish Agnihotri

Present: Mr. Gurpal Singh Sandhu, Advocate for the petitioner.

GIRISH AGNIHOTRI, J. (Oral)

The matter has been taken up through video-conferencing on account of restrictions due to outbreak of pandemic COVID-19.

Petitioner-Atul Kumar, stated to be aged 24 years, has filed the present petition *inter alia* with a prayer for quashing of impugned order dated 16.01.2020 (Annexure P-4), passed by the learned CJM, Fazilka, vide which, the petitioner has been declared as proclaimed person in a complaint case bearing No.NACT 08-2018 dated 04.01.2018 under Section 138 of Negotiable Instrument Act, which is now pending for 16.11.2020.

Learned counsel for the petitioner, based on the pleadings, submits that the complaint under Section 138 of NI Act, was filed in the month of August 2017, against the petitioner herein. The case of the petitioner is that the petitioner had been appearing before the Court below and on 11.10.2019 he could not appear on one date.

At this stage, learned counsel for the petitioner submits that this Court may orally accept the apology and regret on part of the petitioner. He submits that the petitioner would convey the same regret and apology to the Court below with a further undertaking that he would not default in appearance and would continue appearing before the Court in all proceedings. Learned counsel further submits that he has instructions from

the petitioner and his family members that in order to show his bona fide, the petitioner would give insolvent surety of approximately Rs.3 lacs. He then submits that the petitioner is also ready to give an undertaking that the amount now offered through the surety, can be confiscated and deposited in the Government Treasury, in case of further default.

In view of the peculiar facts and circumstances as noticed above, oral prayer of counsel for the petitioner, is accepted.

Accepting the offer made by counsel for the petitioner, the petitioner is directed to submit a written undertaking conveying his apology and regret to the trial Court and he is also directed to submit insolvent surety of Rs.3 lacs to the Court. The petitioner also give an undertaking that he would not default in appearance and would continue in all proceedings. It is made clear that in case, the petitioner is found to default in appearance, the above said surety shall be confiscated and deposited in the Government Treasury.

Accordingly, the impugned order dated 16.01.2020, is quashed, subject to the deposit of surety (mentioned above) with above said undertaking, by the petitioner.

Petition is allowed in the above terms.

(GIRISH AGNIHOTRI)
JUDGE

13.10.2020

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No