

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH
(Heard through Video Conferencing)**

Crl. Misc.M-41959 of 2020 (O&M)
Date of Decision: 14.12.2020

Gajender Singh Ravish

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vivek Goyal, Advocate
for the petitioner.

JAISHREE THAKUR, J. (Oral)

The petitioner herein seeks to challenge the order dated 1.12.2020 by which his bail bonds have been forfeited and warrant of arrest have been issued as well as notice under Section 446 of the Code of Criminal Procedure has been issued to the surety.

Learned counsel for the petitioner herein submits that he was convicted under Section 138 of the Negotiable Instruments Act 1881 (henceforth referred to as “**the Act**”) by the Judicial Magistrate Ist Class, Faridabad, vide order dated 6.1.2020, against which he filed an appeal before the Sessions Judge, Faridabad. By order dated 19.2.2020, he was admitted to bail with a direction to comply with the provision of Section 148 of the Act by making deposit of an amount of ₹18,75,000/- i.e. approximately 25% of the compensation amount in the form of bank draft

within a period of 30 days from that date. However, before he could comply with the said order, there was lock down on account of corona pandemic and courts were not functional. Thereafter, the matter was adjourned on various subsequent occasions. On 6.10.2020, when the matter was taken up by the Sessions Judge, Faridabad, notice was issued to the petitioner as well as to his counsel for 2.11.2020. It is argued that in fact there was a circular issued by this Court, wherein it had allowed the matters to be heard in case the counsel for the parties to the lis give their consent. In fact, the petitioner had not received any notice regarding order dated 6.10.2020 requiring him to put in appearance on 2.11.2020 and his presence has wrongly been marked. Since the petitioner as well as his counsel was not aware of the order dated 6.10.2020 and 2.11.2020, therefore, he did not put in appearance on 1.12.2020 when the impugned order came to be passed.

Learned counsel for the petitioner would contend that the petitioner is ready and willing to comply with the order dated 19.2.2020 with modification in the same. It is contended that in fact under Section 148 of the Act, the petitioner is required to make deposit of 20% of the compensation amount and not 25% as has been ordered and he proposes to file an application seeking modification of the same.

I have heard learned counsel for the petitioner and have also perused the affidavit in support of the petition, wherein it has been categorically stated that the petitioner was never served with the copy of the order dated 6.10.2020 requiring him to put in appearance. In fact, no consent either of the petitioner or his counsel was ever obtained.

In view of the fact that the petitioner has categorically submitted that he is willing to comply with the order dated 19.2.2020 (subject to any modification in the same), the arrest of the petitioner is stayed till 21.1.2021. The petitioner is directed to put in appearance before the court below and furnish demand draft in terms of the order passed (or to be passed by the Court on the application to be moved by the petitioner). Needless to say that in case the petitioner does not put in appearance and furnish the demand draft, the interim protection allowed to him today shall be deemed to have been vacated.

The petition stands disposed of on the above terms.

14.12.2020
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No