

244 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-289-2020

Date of decision-17.11.2021

Hem Raj

...Petitioner

Vs.

Mohan Kaur

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Surender Saini, Advocate for the petitioner.

Mr. Arun Luthra, Advocate for respondent.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this revision petition to challenge the appellate Court order dated 19.12.2019, whereby the application for exemption from personal appearance of the petitioner has been dismissed and warrants of his arrest have been issued.

On 30.01.2020, the following order was passed:-

“Learned counsel for the petitioner submits that bail bonds of the petitioner, who is an accused in a complaint under Section 138 of the Negotiable Instruments Act (for short 'the Act') have been cancelled by the trial Court for the reason of non payment of amount of compensation and the trial Court fell in error in doing so. In support of his contention, he has referred to judgment by a Co-ordinate Bench of this Court in Vivek Sahni & Anr. Vs. Kotak Mahindra Bank Ltd., 2019(4) RCR (Criminal) 614, wherein, it was observed that in case of proceedings for dishonour of cheque under Section 138 of the Act, default in payment of certain percentage of interim compensation or fine would

not ipso facto result in cancellation of the bail, since recovery can be made of such defaulted amount as if it is a fine under Section 421 Cr.P.C.

Notice of motion for 27.03.2020.

The petitioner is directed to appear in the trial Court within 07 days from today and on his doing so, he shall be released on interim bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court.”

Learned counsel for the petitioner states that pursuant to the above order, the petitioner submitted himself before the Appellate Court on 31.01.2020, who was admitted on interim regular bail.

The above fact is not disputed by learned counsel for the complainant, but he submits that the condition of depositing 20% of the cheque amount as directed by the Appellate Court is yet to be complied with by the appellant (petitioner).

After hearing learned counsel for the parties and considering the above background, this Court finds that as far as the condition by the Appellate Court directing the petitioner to deposit 20% of the compensation amount was issued vide order dated 27.09.2019 and the said order has not been challenged in this revision petition. Since the bail of the petitioner was cancelled through the impugned order dated 19.12.2019 and in view of the fact that pursuant to the order dated 31.01.2020 he has already joined the proceedings before the Appellate Court, no other material issue survives for adjudication in this case.

Resultantly, the order dated 27.09.2019 is set aside and the petitioner is allowed to remain on the same bail bonds/surety bonds furnished by him before the Appellate Court on 31.01.2020.

Disposed off.

(MANOJ BAJAJ)
JUDGE

17.11.2021

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No