

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 30.09.2021

1.

CRM-M-34798-2021

Harpal Singh

... Petitioner

Versus

Ashok Kumar

... Respondent

2.

CRM-M-34819-2021

Harpal Singh

... Petitioner

Versus

Ashok Kumar

... Respondent

3.

CRM-M-34835-2021

Harpal Singh

... Petitioner

Versus

Ashok Kumar

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Apoorv Aggarwal, Advocate
for the petitioner.

Mr.Surinder Daaria, Advocate
for the respondent.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

The first CRM-M-34798-2021 titled as “Harpal Singh vs.Ashok Kumar” has been filed under Section 482 Cr.P.C. for setting aside order dated 12.08.2021 (Annexure P-1) passed by the Additional Sessions Judge, Gurugram, Haryana, in CRA no.124 of 2019 titled as “Harpal Singh vs. Ashok Kumar” arising out of complaint bearing no.1599 AD, under Section 138 of the Negotiable Instruments Act (in short ' the Act'). CRM-M-34819-2021 titled as “Harpal Singh vs. Ashok Kumar” is a petition in which same parties are involved and same has also been filed against the order dated 12.08.2021 passed by the Additional Sessions Judge, Gurugram in the case bearing no.CRA-123-2019 titled as “Harpal Singh vs. Ashok Kumar” arising out of complaint case bearing no.2724 KG under Section 138 of the Act. CRM-M-34835-2021 titled as “Harpal Singh Vs. Ashok Kuamr” is also between the same parties and is also seeking challenge to the same order dated 12.08.2021 passed by the Additional Sessions Judge, Gurugram, in case bearing CRA no.122 of 2019 titled as “Harpal Singh vs. Ashok Kumar” arising out of complaint no.594 AG under Section 138 of the Act.

Both the counsel have submitted that in all the three cases, facts and issues of law are the same. On the request of the parties, CRM-M-34798-2021 is being taken up as a lead case for the purpose of present adjudication and the facts are being taken from the said petition. On 26.08.2021, the following order was passed:-

“Learned counsel for the petitioner inter alia contends that the petitioner is 68 years old and has never misused the concession of suspension of sentence which was granted vide order dated 14.03.2019. However, since the petitioner was COVID positive as

*apparent from report dated 10.04.2021 (Annexure P-8), he could not appear on 09.04.2021 on which date an application for exemption was filed. However, since the petitioner was not keeping good health and in the month of July, 2021 also, because of COVID pandemic, he was advised not to move out of house and thus, could not appear on 13.07.2021. It is submitted that on the said date itself, learned Additional Sessions Judge, Gurugram, cancelled the bail of the petitioner and forfeited the bail bonds and issued the non-bailable warrants against the petitioner for 12.08.2021. The said procedure adopted, as per arguments of learned counsel for the petitioner, is in violation of Chapter VI of the Code of Criminal Procedure and for the said purpose, the reliance has been placed upon the judgment of this Court in the case titled **Girdhari Lal Vs. State of U.T. Chandigarh, CRM-M-42294-2016, decided on 28.11.2016**. It is further submitted that although the petitioner, through his counsel, had moved an application for cancellation of non-bailable warrants and for restoration of bail bonds and surety bonds, however, the same was also dismissed vide impugned order dated 12.08.2021. He has further submitted that the petitioner is ready to appear before the learned trial Court/Additional Sessions Judge, Gurugram on the next date i.e. On 01.09.2021 and has prayed for interim*

directions.

Notice of motion for 30.09.2021.

In the meantime, subject to petitioner appearing on 01.09.2021 before the learned trial Court / Additional Sessions Judge, Gurugram, the operation of order dated 12.08.2021 vide which fresh nonbailable warrants of arrest and notice to his surety have been issued, shall remain stayed.”

Learned counsel for the petitioner has submitted that in pursuance to the said order, the petitioner has appeared and has complied with the order dated 26.08.2021.

Learned counsel for the petitioner has reiterated the arguments which have been noticed in order dated 26.08.2021 and has prayed that the orders dated 13.07.2021 as well as the order dated 12.08.2021 (Annexure P-1) be set aside.

Learned counsel for the sole respondent / complainant has fairly stated that he has no objection in case the present petitions are allowed and the orders dated 13.07.2021 and 12.08.2021 are set aside but has prayed that the appeal which is pending before the Additional Sessions Judge, Gurugram, of the petitioner, be ordered to be decided expeditiously.

Keeping in view the abovesaid facts and circumstances, more so the fact that the petitioner has complied with the order dated 26.08.2021 and non-appearance of the petitioner has been duly explained in the abovesaid order and also the fact that counsel for the complainant / respondent has fairly stated that the petitions may be allowed, the present petitions are allowed accordingly and the impugned orders dated 13.07.2020

and 12.08.2021 are set aside and the petitioner is permitted to remain on bail on the same bail bonds and surety bonds by restoring the same. However, in view of the fact that the complaints in the present case is of 2015 year and the appeals are of the year 2019 and also keeping in view the fair stand taken by the counsel for the complainant, the Additional Sessions Judge, Gurugram, is requested to expedite the hearing of appeals and to decide the same as expeditiously as possible preferably within a period of two months from the next date of hearing that is stated to be 17.11.2021. Counsel for both the parties are directed to assist the Court in expeditious disposal of all the cases.

A photocopy of this order be placed on the files of other connected cases.

(VIKAS BAHL)
JUDGE

September 30, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No