

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-40903-2021
Date of decision: 04.10.2021**

Suresh Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vaibhav Jain, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

This is a petition filed under Section 482 Cr.P.C. for quashing of the impugned order dated 14.08.2019 passed by the Additional Sessions Judge, Hisar in FIR No.0688 dated 01.08.2016 under Sections 406, 420, 467, 468, 471 and 506 of the IPC and Section 66(A) of Information Technology Act, 2000, registered at Police Station City Hisar, Haryana, vide which the regular bail granted to the petitioner was cancelled.

Learned counsel for the petitioner submits that while granting regular bail to the petitioner on 04.02.2017, the following directions were given by the court of the Additional Sessions Judge, Hisar:-

“6. From examination of record in light of aforesaid rival contentions it is crystal clear that regarding the cheque complainant had got lodged FIR under Section 420, 467, 468, 471, 506 IPC and criminal complaint under section 138 of Negotiable Instrument Act. Complainant in affidavit dated 03.02.2016 has stated that he has no objection to receipt of balance amount of Rs.10,61,000/-. Applicant-accused is in custody since 24.01.2017. Investigation and trial are likely to take time. In view of above material facts, facts and circumstances of the case bail application of applicant-accused is allowed. Applicant-accused shall be released on furnishing bail and surety bonds in the sum of Rs.50,000/- with one surety in the like amount to the

satisfaction of trial Court/Duty Judge subject to following conditions.

a) that applicant-accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

b) that applicant-accused shall not leave the country without prior permission of the Court.

c) The applicant-accused will maintain good conduct during trial and shall attend court regularly.

d) the applicant-accused will pay the amount of Rs.10,41,000/- to complainant Narender Kumar within six months from today.

7. Copy of order be sent to trial Court. After due compliance file be consigned to record room."

Learned counsel for the petitioner further submits that the Additional Sessions Judge, Hisar while granting the regular bail to the petitioner has imposed a condition that he will pay an amount of Rs.10,41,000/- to the complainant within a period of six months, however, this condition has been imposed without recording any consent of the petitioner, who was in judicial custody and therefore, the same is not in accordance with the directions given by Hon'ble Supreme Court.

Learned counsel for the petitioner further submits that vide impugned order dated 14.08.2019, the said order was recalled and the bail granted to the petitioner was withdrawn.

Learned State counsel submits that since the order dated 04.02.2017 was passed by the predecessor Court on a condition that the petitioner will pay an amount of Rs.10,41,000/- to the complainant within a period of six months, the Court is justified in cancelling the bail as the petitioner has failed to pay the said amount.

After hearing learned counsel for the parties, and considering

the conditions made out in the order dated 04.02.2017 granting bail to the petitioner, it is nowhere recorded that the petitioner had given any undertaking before the trial Court, as he was seeking regular bail and was in judicial custody. Therefore, the Clause-D of the condition directing the petitioner to pay a sum of Rs.10,41,000/- to the complainant was not volunteered by the petitioner and rather it was the direction given by the Additional Sessions Judge, Hisar.

Accordingly, the present petition is allowed and the impugned order dated 14.08.2019 is set aside and the petitioner will continue to remain on regular bail in terms of the order dated 04.02.2017.

04.10.2021
Chetan Thakur

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No