

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

CRM-M-53182-2021

Date of decision : 20.12.2021

Jasvir Singh

... Petitioner

Versus

The Sangrur Central Co-operative Bank

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Gurbir Singh Sidhu, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing the order dated 24.02.2021 passed by the Judicial Magistrate Ist Class, Barnala in CIS no.COMA-369-2017 under Section 138 of the Negotiable Instruments Act, 1881 (in short "N.I. Act").

Learned counsel for the petitioner has submitted that in the present case, the respondent had filed a complaint under Section 138 of the N.I. Act with respect to dishonour of cheque of Rs.1,50,056/-. It is further submitted that the present petitioner had appeared in the said case and the said case was fixed for 21.03.2000 but due to spread of Corona virus, the case was adjourned and the case was fixed for 06.01.2021 and on that date, the Court issued notice to the complainant and accused for 24.02.2021 and on that date, the clerk of previous counsel of the present petitioner in the trial Court had told him that due to Covid-19, the Courts were still not working and presence of the petitioner would not be required. On

bail bonds and surety bonds had been cancelled due to non appearance of the petitioner on 24.02.2021. The petitioner had filed an application for anticipatory bail before the Sessions Judge, Barnala, which was dismissed on 26.11.2021 as not being maintainable. It is argued that the petitioner was wanting to appear before the Court and therefore had filed the said application for anticipatory bail and filed the present petition for the said reason. It is further argued that the case is now fixed for 14.01.2022 and in case, the petitioner is granted the relief as sought, the petitioner undertakes to appear before the trial Court within 15 days from today and would also appear on each and every date before the trial Court except the date on which the personal appearance of the petitioner is exempted and for delay in the proceedings, the petitioner is ready to pay an amount of Rs.5000/- to the complainant.

Keeping in view the above said facts and circumstances moreso, the fact that the explanation put forth by the petitioner with respect to his non-appearance on account of Covid-19 pandemic, seems to be bonafide and is accepted and also, keeping in view the fact that the case is now fixed for 14.01.2022 and the petitioner is ready to appear before the trial Court within a period of 15 days and has further undertaken to keep appearing before the trial Court on each and every date except the date on which his personal appearance is exempted and has also undertaken to compensate the complainant on account of delay caused in the proceedings by depositing Rs.5000/- and since the primary object of issuance of non-bailable warrants is to seek the presence of the petitioner, the present petition is allowed and the impugned order dated 24.02.2021 is set aside subject to the conditions that the petitioner would appear before the trial

Court within a period of 15 days from today and would keep appearing on each and every date except on the date when his personal appearance is exempted and in case of such appearance before the trial Court within 15 days from today, the petitioner would be released on bail subject to his furnishing bail bonds / surety bonds to the satisfaction of the trial Court and the same would also be subject to the petitioner depositing an amount of Rs.5000/- within the above stipulated 15 days with the respondent bank and producing receipt before the trial Court on the date when the petitioner appears within the abovesaid 15 days.

This Court has not issued notice to the respondent as no prejudice is being caused to the respondent and issuance of notice would only delay the proceedings in the complaint under Section 138 N.I. Act and since the primary purpose of non-appearance of bailable warrants is to seek the presence of the petitioner and learned counsel for the petitioner has undertaken that the petitioner would appear within 15 days before the trial Court and has also agreed to deposit the compensation amount of Rs.5000/-, thus, the present petition has been allowed without issuing notice to the respondent.

(VIKAS BAHL)
JUDGE

December 20, 2021

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No