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

CRM-M-1173-2022

Date of decision-21.01.2022

Mohammad Khalil**....Petitioner****Vs.****State of Punjab and another****...Respondents****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Sumeet Puri, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 438 read with Section 482 of the Code of Criminal Procedure for grant of anticipatory bail in criminal complaint CRA-447/2019 dated 05.11.2019, titled as “Khalil Vs. Zora Singh and another”, filed under Section 138 Negotiable Instruments Act, 1881, as the appellate Court vide its order dated 30.11.2021 proceeded to cancel the bail of convict (petitioner) on account of his absence.

Learned counsel for the petitioner has submitted that vide order dated 05.11.2019, sentence of the appellant was suspended by Sessions Court and he was directed to deposit 20% of the cheque amount. Subsequently because of breakout of COVID-19, the appeal was adjourned and on 30.11.2021, appellate Court proceeded to cancel the bail of the petitioner as he did not appear in the Court due to unavoidable circumstances and also failed to comply with the

directions of deposit of 20% of the cheque amount. Learned counsel states that the petitioner would deposit the requisite amount within one week and would also appear before the appellate Court. He further submits that the case is now fixed before the appellate Court for 23.03.2022.

When learned counsel was confronted with the maintainability of the petition, he makes a prayer to treat the petition under Section 482 Cr.P.C. The prayer is accepted.

Notice of motion.

At this stage, Mr. Ramdeep Partap Singh, DAG, Punjab accepts notice on behalf of the respondent-State and has opposed the prayer. He contends that neither the petitioner appeared before the appellate Court nor he complied with the directions issued on 30.11.2021, however, it is not disputed by him that appellant was already on bail since 2019 and had been appearing before the appellate Court.

After hearing learned counsel for the petitioner, at this stage, this Court does not deem it necessary to issue notice to the complainant as it would cause extra burden upon the respondent No.2/complainant. However, it shall be open for the complainant to seek recalling of this order, in case the petitioner is guilty of concealment of facts.

Considering the nature of the case as well as the

undertaking given by petitioner, this Court grants last opportunity to the petitioner to deposit the requisite amount of 20% of the cheque before the appellate Court within one week, who would also submit himself before the Court.

In view of the above, the impugned order dated 30.11.2021 (Annexure P-1) is set aside and appellant is allowed to remain on the same bail bonds and surety bonds. It is made clear that in case, petitioner does not appear before the appellate Court and fails to deposit the requisite amount, the impugned order dated 30.11.2021 shall remain intact.

Disposed off.

(MANOJ BAJAJ)
JUDGE

21.01.2022

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