

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-3404-2022

Date of Decision: January 28, 2022

Mr. Santosh Sharma

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. J.P. Jangu, Advocate for the petitioner.

Mr. Manish Bansal, DAG, Haryana

(Through Video Conferencing)

ANOOP CHITKARA J. (ORAL)

The petitioner who was convicted under Section 138 of Negotiable Instruments Act, 1881 had challenged the conviction and order of sentence dated 30/31.03.2017 by filing appeal before the Sessions Court. In the said appeal, his sentence was suspended subject to certain conditions. However, due to violation of such conditions and non-cooperation, the Additional District & Sessions Judge vide order dated 12.08.2021 (Annexure P-4) cancelled his bail by giving elaborative reasons.

Given the nature of the order is passed, no notice is required to be issued to the complainant. The limited prayer of the petitioner is for grant of bail in case/appeal bearing CRA No.209/2017 in an offence which is otherwise bailable. Infact the challenge is wrongly construed because the petitioner was supposed to challenge the dismissal of his application for exemption from the personal appearance which resulted into cancellation of his bail.

Be that as it may, this Court does not want to go in technicalities of Section 138 of NIA because the offence otherwise under the said Section is bailable. Without going into further details and in the interest of justice, the contents of the petition makes out a case for protection and consequently, this Court in exercise of power under Section 482 Cr.P.C. set aside the order dated

Gurugram, subject to restoration of the bail bonds. Since the Sessions Court was compelled to pass the order because of the allegedly delay tactics as such, this Court requests the concerned Court cease of this appeal and to decide it finally on or before 28.02.2022. In case the complainant seeks an adjournment then such request may be allowed and maximum up to 31.03.2022 decide it. However, no adjournment shall be granted to the appellant and in case the appellant counsel or appellant himself do not appear then the appellate Court may appoint counsel through Legal Aid and proceed to decide the appeal on merits within the stipulated time.

The petition is disposed of with the aforesaid observations.

(ANOOP CHITKARA)
JUDGE

January 28, 2022
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Whether speaking/reasoned: Yes/No
Whether reportable: No