

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

212

CRM-M-13300-2022 (O&M)

Date of Decision: 24.05.2022

SANDEEP KUMAR SAINI

... Petitioner

Versus

YOGENDER MOHAN AND ANR.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Gautam Kaile, Advocate
for the petitioner.

None for respondent No.1.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana
for respondent No.2/State.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 seeking regular bail in an appeal pending before the Additional Sessions Judge, Yamuna Nagar at Jagadhri bearing No.29 of 2016 titled 'Sandeep Kumar Saini Vs. Yoginder Mohan etc.'

Learned counsel appearing on behalf of the petitioner *inter alia* contends that the petitioner was convicted vide judgment of conviction dated 12.01.2016 by the Judicial Magistrate Ist Class, Yamuna Nagar at Jagadhri for the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and was sentenced to undergo imprisonment for a period of one year vide order of sentence dated 13.01.2016.

Aggrieved thereof, the petitioner filed the aforementioned appeal before the Court of Sessions, Yamuna Nagar at Jagadhri. He was regularly appearing before the lower Appellate Court, however, during the period of COVID-19, he failed to appear before the lower Appellate Court. Resultantly, the bail/surety bonds of the petitioner were ordered to be forfeited to State vide order dated 19.03.2021. Thereafter, the petitioner was arrested and sent to judicial custody. The application seeking concession of regular bail was declined by the Addl. Sessions Judge, Yamuna Nagar at

Jagadhri vide order dated 18.01.2022. Learned counsel contends that as against the total substantive sentence of one year, the petitioner has already undergone the actual sentence of more than six months.

Per contra, learned counsel for the State submits that the petitioner is a habitual bail jumper and as such, the concession, so sought by the petitioner, ought not to be given to him.

It is, however, not disputed that the appeal against the judgment of conviction dated 12.01.2016 and order of sentence dated 13.01.2016 is pending adjudication before the lower Appellate Court and the total awarded sentence being one year and the petitioner having undergone a total custody of approximately six months, it would not be expedient and in the advancement of interest of justice to continue the custodial incarceration of the petitioner.

Accordingly, the present petition is allowed. The petitioner is admitted to regular bail subject to his furnishing adequate bail/surety bonds to the satisfaction of the Addl. Sessions Judge/Duty Judge, Yamuna Nagar at Jagadhari where the appeal of the petitioner is pending.

Petition stands allowed accordingly.

(VINOD S. BHARDWAJ)
JUDGE

24.05.2022
rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No