

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

236

CRM-M-13112-2022

Date of Decision: 19.12.2022

Dharambir

...Petitioner

Versus

Such Agra Implements and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Arun Kumar Singla, Advocate,
for the petitioner

Mr. Ashit Malik, Advocate,
for respondent No.1

Mr. Karan Garg, AAG, Haryana

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Section 482 Cr.P.C. is seeking quashing of order dated 09.03.2022 (Annexure P-5) and order dated 17.03.2022 (Annexure P-6) whereby Additional Sessions Judge, Panipat, has dismissed the application of the petitioner for exemption from personal appearance and has issued warrants of arrests in Appeal CIS No.CRA 255/2019 which is pending against order of conviction in complaint under Section 138 of Negotiable Instruments Act.

Learned counsel for the petitioner, *inter alia*, submits that petitioner was convicted and sentenced to imprisonment of 1 year and 6 months by the Trial Court. The petitioner preferred an appeal before Appellate Court which accepted bail bond of the petitioner and ordered to release on bail. The petitioner on account of injury on his person could not appear before the Appellate Court on 09.03.2022. The petitioner moved application seeking exemption which came to be

rejected and non-bailable warrants were issued. The petitioner is ready and willing to appear before appellate court and furnish fresh bail bonds. The petitioner is not involved in any other case. The petitioner in the present case has been convicted under Section 138 of the Negotiable Instruments Act. The absence of the petitioner was neither intentional nor willful. The petitioner is ready to pay costs of Rs.10,000/- for his failure to appear before Appellate Court. No prejudice is going to be caused to the complainant if an opportunity is granted to the petitioner.

Notice of motion.

Mr. Ashit Malik, learned counsel for respondent No.1 and Mr. Karan Garg, AAG, Haryana submit that they have no objection if the present petition is disposed of, subject to costs.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

Keeping in mind:

- (i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before appellate court on

each and every date, thus, his presence would meet ends of justice;

- (ii) The petitioner preferred an appeal before Appellate Court which accepted bail bond of the petitioner and ordered to release on bail;
- (iii) The petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs.10,000/-;
- (iv) The petitioner is ready to furnish bond/surety to the satisfaction of the appellate court;
- (v) The petitioner is not involved in any other criminal case;
- (vi) The petitioner is resident of Panipat and trial is pending at Panipat, thus jurisdictional court and police authorities have direct access over the activities of the petitioner;
- (vii) Trial is pending since 2019 and petitioner is ready to face appellate proceedings, thus, no prejudice is going to be caused to the complainant;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before the Appellate Court on or before 21.01.2023 and on his doing so, the appellate court shall

release him on bail on his furnishing bail bonds. The petitioner, as agreed, shall pay costs of Rs.10,000/- to the Complainant.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

19.12.2022
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No