

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

CRM-M-17220-2022 (O&M)

Date of decision: 30.08.2022

Lakhwinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Inderjit Singh Chawla, Advocate for the petitioner.

Mr. Subhash Godara, Addl. A.G. Punjab.

Mr. Prabhjot Singh, Advocate for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present petition is to the order dated 17.03.2022 (Annexure P-4) passed by learned Sub Divisional Judicial Magistrate, Jalalabad, in complaint bearing case No.NACT/369/2018, titled as 'The PAD Bank Vs. Lakhwinder Singh', whereby the petitioner has been declared a proclaimed person.

As per the contents of complaint filed by respondent No.2- bank, the petitioner had availed a loan facility of Rs.10 lakh from the bank; that in order to discharge his financial obligations, the petitioner had issued cheque No.435273 dated 05.04.2018, amounting to Rs.5,51,325/-, in favour of the bank. When the said cheque was presented, it was returned with the remarks

'Funds Insufficient', and as such, the said cheque got dishonoured. The petitioner could not arranged the money because of Covid-19 pandemic situation.

Learned counsel for the petitioner contends that regular bail granted to the petitioner was dismissed by the learned Sessions Judge, Fazilka, vide order dated 24.03.2022, because of his absence on 31.08.2021 from the Court proceedings and was declared a proclaimed person by the learned Sub-Divisional Judicial Magistrate, Jalalabad, vide order dated 17.03.2022. The absence of the petitioner was not intentional, as he was informed by his counsel that due to spread of Covid-19, the Courts were working in a restricted manner and he would be informed accordingly, and that the petitioner is now ready to join the Court proceedings as he has no intent to evade the process of law. To show his bona fide, the petitioner is ready to pay a sum of Rs. 1,00,000/- by way of a Demand Draft.

Learned counsel for respondent No. 2 submits that the petitioner was not appeared on the dated fixed and was declared a proclaimed person and that the cheques issued by the petitioner in favour of the Bank was also got dishonoured because of insufficient funds and therefore, the petition is liable to be dismissed.

I have heard the learned counsel for the parties.

It is a case, wherein the petitioner could not appeared before the learned trial Court and the non-appearance of the petitioner appears to be unintentional.

The objective of the coercive mechanism prescribed under the

Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua him. The absence of the petitioner before the Court below appears to be non-intentional. If the accused shows his sincere intention and desire to appear before the Court, then it would be justified to protect him from being arrested.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioner to surrender before the trial Court/Duty Magistrate within 15 days from today, subject to payment of Rs. 1,00,000/- in the shape of Demand Draft in favour of respondent No.2-Bank. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

30.08.2022

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No