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

CRM-M-20494-2022

Date of decision : 12.05.2022

Narinder Bajaj

...Petitioner

Versus

Mula Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Chetan Bansal, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 02.03.2022 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Amritsar, whereby, the bail granted to the petitioner vide order dated 17.01.2020 was cancelled and non-bailable warrants were issued against the petitioner in complaint dated 04.07.2018 under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter to be referred as “the Act of 1881”) and under Section 420 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”).

Learned counsel for the petitioner has submitted that in the present case, Mula Singh had filed a complaint under Section 138 of the Act of 1881 and Section 420 of the IPC against the petitioner and other accused for dishonour of two cheques amounting to Rs.2,00,000/- each and in the said

case, on 08.10.2021, 30.11.2021 and on 11.01.2022, the complainant had not appeared and the matter was adjourned to 02.03.2022 for notice to the complainant and his counsel calling upon him to specify the particulars pertaining to accused Nos.1 and 4 for the date fixed. On 02.03.2022, the complainant had appeared but the petitioner could not appear as he was not aware that he had to appear on 02.03.2022. It is further submitted that the petitioner, on a wrong legal advice, had filed anticipatory bail which was dismissed on 06.05.2022 (Annexure P-3) and the same was not maintainable in view of law laid down by the Hon'ble Supreme Court in **Manish Jain Vs. Haryana State Pollution Control Board**, reported as **2020 SCC Online SC 1101**. It is further contended that the petitioner has now filed the present petition under Section 482 of Cr.P.C. and thus, he is ready to appear before the trial Court within a period of three weeks from today and also undertakes to appear on each and every date before the trial Court unless his appearance is personally exempted by the Court.

This Court has heard the learned counsel for the petitioner and has perused the paper book.

A perusal of the record would show that on 08.10.2021 as well as on 30.11.2021, the complainant had not appeared and accordingly, the matter was adjourned to 11.01.2022. On 11.01.2022, no one had appeared including the complainant and accordingly, the matter was adjourned to 02.03.2022 for notice to the complainant and his counsel calling upon him to specify the particulars pertaining to accused Nos.1 and 4 for the date fixed. On 02.03.2022, no witness was present and it is the case of the petitioner that the petitioner was under the impression that the matter won't

be taken up on account of COVID-19 pandemic and he had not been informed that he had to appear on 02.03.2022 and on account of his non-appearance on 02.03.2022, non-bailable warrants were issued against him and notice was also issued to his surety.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court within a period of three weeks from today and to also appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court. Since, the purpose of issuance of non-bailable warrants was to secure the presence of the petitioner, thus, the interest of justice would be met, in case, the impugned order is set aside and the petitioner is directed to appear before the trial Court within a period of three weeks from today.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the order dated 02.03.2022 (Annexure P-2) to the extent that the bail granted to the petitioner has been cancelled and non-bailable warrants have been issued against the petitioner and notice has been issued to his surety, is set aside subject to the petitioner appearing before the trial Court within a period of three weeks from today and on his appearance, the trial Court is directed to release the petitioner on bail on his furnishing bail bonds/surety bonds subject to its satisfaction. The same would also be subject to the petitioner depositing an amount of Rs.10,000/- as costs within the stipulated time with the trial Court, which would be released to the complainant by the trial Court and would also be subject to the petitioner giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is

personally exempted by the Court.

In this case, notice has not been issued to the complainant as no order prejudicial to the rights of complainant, is being proposed to be passed by this Court and in fact, complainant has also been compensated with the abovesaid amount/costs and issuance of notice would only further delay the matter which would cause prejudice to the complainant and since the main purpose is to make the petitioner appear before the trial Court, thus, the present petition is disposed of without issuance of notice to complainant.

It is, however, clarified that in case, the abovesaid conditions are not complied with within the aforesaid period, then the present petition would be deemed to have been dismissed.

12.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No