

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

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CRM-M-25208-2022 (O&M)

Date of Decision: 04.08.2022

HARBANS LAL

... Petitioner

Versus

KOAK MAHINDRA BANK LTD.

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Kartikeya Swaroop Mehta, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner in case NACT No.563/2013 CNR No.CHCH030010362016 titled 'Kotak Mahindra Bank vs Harbans Lal' under Section 138 of the Negotiable Instruments Act, 1881, pending before the learned Judicial Magistrate, 1st Class, Chandigarh.

Learned counsel for the petitioner submits that the petitioner was granted bail by the learned trial Court and he was regularly appearing; that due to the age factor, ill-health and misunderstanding, the petitioner could not appear before the trial Court on 09.12.2021 and thereafter on 17.01.2022, 25.02.2022 and 04.04.2022; that the trial Court on 09.12.2021 had cancelled the bail/surety bonds of the petitioner, forfeited the same to the State and issued warrants of arrest against him and that the non-appearance of the petitioner before the trial Court was not intentional. He further submits that the matter has been compromised

between the parties and that the petitioner is still ready to deposit 50% of the cheque amount on his appearance before the trial Court, as is also mentioned in the order dated 12.10.2021 passed by the learned Magistrate.

I have heard the learned counsel for the petitioner.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on a solitary date i.e. 09.12.2021, due to old-age, ill-health and misunderstanding and thus, his non-appearance on the said date was 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 the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Though the petitioner absented himself from the Court proceedings, yet he is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

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 him depositing the costs

of Rs.10,000/- with the concerned District Legal Services Authority and further subject to deposit of 50% of the cheque amount. 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.

04.08.2022

(HARNARESH SINGH GILL)
JUDGE

Aman Jain

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