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

**CRM-M-25548-2022 (O&M).
Date of decision: June 02, 2022.**

Manish Kumar @ Munish Garg

... Petitioner

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

**PRESENT: Mr.Ramnish Puri, Advocate,
for the petitioner.**

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 Cr.P.C. praying for quashing of impugned orders dated 5.4.2022 and 28.4.2022 passed by the Judicial Magistrate First Class, Jagadhri in NACT No.1528 of 2015 (Date of Registration/Institution 11.9.2015 and CNR No.HRYN030033852015) under Section 138 of the Negotiable Instruments Act, 1881, by which the bonds furnished by the petitioner were deemed to have been forfeited and cancelled and presence of the petitioner has been ordered to be procured by way of warrant of arrest and the bail of the petitioner has been cancelled.

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Learned counsel for the petitioner has submitted that in the present case, the complaint under Section 138 of the Negotiable Instruments Act, was filed with respect to the dishonour of two cheques amounting to Rs.1,50,000/- each i.e. total Rs.3 lacs. It is further submitted that the petitioner could not appear before the trial Court on 5.4.2022 on account of the fact that his father was not well and for his treatment he had taken his father to the hospital. It is further submitted that since father of the petitioner was not well thus, he could not appear before the trial Court on 5.4.2022 and also on 28.4.2022. It is further submitted that next date of hearing in the present case is 11.7.2022 and the petitioner undertakes to appear on the said date and also on each and every date subsequent thereto.

Learned State counsel appearing for respondent No.1 who has advance notice and is fully prepared to argue the matter, has opposed the present petition. It has been submitted that the petitioner had earlier also not appeared and was declared a proclaimed person on 28.2.2018 and thereafter, he had surrendered before the trial Court on 14.6.2019 and was admitted on bail on 14.6.2019 by the trial Court. It is further submitted that even a perusal of the zimni orders would show that the petitioner had been seeking exemptions almost on every date including the dates of hearing falling on 7.10.2021, 19.10.2021, 2.11.2021, 24.11.2021, 22.12.2021, 17.1.2022, 25.1.2022, 15.2.2022 and 10.3.2022 and even on dates prior thereto and thus, has been delaying the proceedings initiated under Section 138 of the Negotiable Instruments Act, which are

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pending since 2015. It is further submitted that no medical certificate has also been produced to substantiate the argument raised and thus, the present petition deserves to be dismissed.

This Court has heard the learned counsel for the parties and has perused the paperbook

It is the case of the petitioner that the petitioner could not appear on 5.4.2022 and 28.4.2022 on account of ill-health of his father. The case is stated to be now fixed for 11.7.2022 and the petitioner has undertaken to appear on or before the said date and has also undertaken to appear on each and every date of hearing and also undertaken to not move an application for personal exemption. Although, a perusal of the record would show that the petitioner had repeatedly filed applications for exemption and had made every effort to delay the proceedings but this Court is of the opinion that since the petitioner is now ready to appear and join the proceedings, it would be in the best interest of the complainant that the petitioner is directed to do so and for the harassment caused to the complainant, costs of Rs.15,000/- is being imposed upon the petitioner, which would be deposited with the trial Court on or before 11.7.2022. A perusal of the orders dated 5.4.2022 and 28.4.2022 would show that no witness was present on the said dates.

Keeping in view the above said facts and circumstances, the present petition is allowed and the order dated 5.4.2022 as well as the order dated 28.4.2022 are set aside subject to the petitioner appearing before

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the trial Court on or before 11.7.2022 and also subject to the petitioner giving an undertaking before the trial Court that he will appear on each and every date before the trial Court and will not seek any exemption and also subject to the petitioner depositing an amount of Rs.15,000/- with the trial Court on or before 11.7.2022 which the trial Court is directed to disburse to the complainant. In case the petitioner complies with the above said conditions, he shall be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

In this case, notice has not been issued to the complainant and as no order prejudicial to the rights of complainant, is being proposed to be passed by this Court 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 made clear that in case the petitioner does not comply with the above said conditions then the present petition would be deemed to have been dismissed.

June 02, 2022.
raj arora

(VIKAS BAHL)
JUDGE

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