IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-37468-2022 (O&M)
Date of decision: 29.08.2022

Tejpal Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. AG Haryana.

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HARNARESH SINGH GILL, J. (ORAL)

Through the instant petition, the petitioner seeks anticipatory bail in criminal complaint No. 662 dated 21.05.2014, titled as 'Bajinder Kumar Vs. Tejpal Singh', and CRA No. 499 of 2016, which is pending in the Court of learned Additional Sessions Judge, Karnal.

Learned counsel for the petitioner submits that vide order dated 01.08.2016 passed by the learned Judicial Magistrate 1st Class, Karnal, the petitioner was convicted in a complaint under Section 138 of the Negotiable Instruments Act, 1881, for one year and directed to pay the cheque amount of Rs. 1,30,000/- to the complainant as compensation. The petitioner challenged the order dated 01.08.2016 before the learned Appellate Court and on

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21.04.2022, the petitioner as well as his counsel could not appeared before the learned Appellate Court, as learned counsel for the petitioner noted wrong date i.e. 21.06.2022 instead of 21.04.2022, following which after cancellation of his bail, bail and surety bonds were forfeited to the State and warrants of arrest were issued against the petitioner with notice to his surety and identifier on 21.04.2022 and on 02.06.2022 the warrants of arrest were again issued against the petitioner. Non-appearance of the petitioner was unintentional. The petitioner is still ready to settle the cheque amount with complainant-Bajinder Kumar and to show his bona fide, the petitioner is ready to pay an amount of Rs. 1 lakh to the complainant by way of a Demand Draft on the next date of hearing before the Appellate Court.

Notice of motion.

On the asking of this Court, learned State counsel, accepts notice on behalf of respondent-State.

I have heard the learned counsel for the parties and have also gone through the paper-book.

It is a case, wherein the petitioner could not appeared before the learned Appellate Court, because of noting of wrong date by his counsel. The non-appearance of the petitioner appears to be not intentional.

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-

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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 Appellate Court, on 14.09.2022, subject to payment of Rs. 1,00,000/- in the shape of Demand Draft to complainant-Bajinder Kumar and further subject to depositing the costs of Rs.10,000/- with the District Legal Services Authority, Karnal. 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 learned Appellate Court.

(HARNARESH SINGH GILL)
JUDGE

29.08.2022
Mangal Singh

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

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