

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44824-2022

Date of decision : 30.09.2022

Rajesh Kumar

..... Petitioner

versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Krishan Singh, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

PANKAJ JAIN, J. (Oral)

Counsel for the petitioner submits that the petitioner is convict for offence punishable under Section 138 of the Negotiable Instruments Act.

2. Against the judgment of conviction, appeal was preferred. The petitioner was directed to deposit 20% of compensation in compliance of statutory provision under Section 148-A of the Negotiable Instruments Act. However, the petitioner failed to deposit the same and absented himself from the appeal. Vide order dated 08.07.2019, his surety bonds were ordered to be forfeited.

3. The petitioner approached this Hon'ble Court in CRM-M-26605-2022 which was decided vide order dated 15.06.2022 holding as under:-

“Notice of motion to only respondent No.1/
State.

Mr. Gurmeet Singh, Assistant Advocate General, Haryana, accepts notice on behalf of respondent No. 1.

Heard the counsel for the petitioner and the counsel for State.

Since, admittedly the bail / surety bonds of the petitioner were ordered to be forfeited to the State on 08.07.2019 by the learned Additional Sessions Judge, Jagadhri in Criminal Appeal No. 181 of 2019, Granting liberty to the petitioner to surrender before the said Court and seek fresh bail, the present petition is disposed of without expressing any opinion on the merits.

If any such bail application is filed by the petitioner after his surrender before the said Court, the same shall be decided expeditiously by the said Court.”

4. Pursuant thereto, the petitioner surrendered before the Appellate Court but only after more than 03 years. On surrendering, the petitioner applied for bail and the Appellate Court has passed the impugned order dated 21.07.2022. Operative part thereof reads as under:-

“After hearing the submission and appraisal of record, this court is of the considered opinion that the explanation rendered by the applicant-appellant is not at all plausible, simply because as per records, the appellant-applicant neither opted to make compliance of the court direction regarding deposit of 20% of the cheque amount, which was a condition precedent for according him the concession of bail nor put in appearance before the court in violation of the personal bond submitted before the court for the purpose of his release on bail and remained absented from the proceedings for a long period of 3½ (three and a half) years and as already observed, warrants of arrest issued against the appellant/convict/applicant remained unexecuted for a substantial period. Further,

during the course of hearing, it has been apprised that two other criminal appeals involved the similar type of accusation against him are also pending adjudication before this court and the conduct of the applicant-appellant in both the said cases is also identical and thus, in such circumstances obtaining in the matter, absence of the appellant/applicant/convict cannot be said to be on account of bona fide and in fact, appellant/convict/applicant has deliberately remained at large and in a way tried to hoodwink the process of the Court, for the reasons best known to him and thus, there being no justifiable explanation on the part of the applicant-appellant as to under what circumstances, he, by misusing the concession of earlier bail granted to him, remained at large for a long span and therefore, considering the earlier/overall conduct of the applicant-appellant, this court does not find it a fit case for granting the concession of bail to the applicant-appellant. Consequently, without commenting on the merits of the case, the instant bail application stands dismissed. However, in the larger interest of justice, this court is very much inclined to expedite the final disposal of the instant appeal which is now posted for 22.7.2022 for final hearing. After due compliance, papers be tagged with the main appeal file.”

5. There is no reason to interfere with the aforesaid well reasoned order dated 21.07.2022. Yet, the counsel for the petitioner submits that the petitioner is ready to deposit whole cheque amount before the Appellate Court out of which 20% be disbursed to the complainant.

6. Finding the submission made by counsel for the petitioner fair, this Court finds that subject to the petitioner depositing 100% of the

cheque amount, he shall be released on bail on his furnishing bail/surety bonds to the satisfaction of the Ld. Appellate Court, concerned.

7. Out of the said deposit made by the petitioner, 20% be released to the complainant and rest 80% be kept deposited. The deposit as well as release will abide by the final order passed in the appeal.

8. Disposed off accordingly.

(PANKAJ JAIN)
JUDGE

30.09.2022
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No