

119

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-43968-2022(O&M)

Date of Decision :22.09.2022

Anil Kumar

...Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM:- HON'BLE MR. JUSTICE SANJAY VASHISTH

Present:- Mr. Naresh Kumar Ganga, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. A.G., Haryana.

SANJAY VASHISTH, J. (Oral)

By way of present petition, petitioner seeks quashing of order dated 30.07.2022 (Annexure P-2) passed by learned Additional Sessions Judge, Sirsa, in CRA-77-2022 titled as ‘ Anil Kumar v. Balaji KSK, whereby bail of the petitioner has been cancelled on account of his non-appearance before the Court on 30.07.2022 and for not depositing the 20 % of compensation amount within the requisite period of 90 days.

Learned counsel for the petitioner submits that after being convicted under Section 138 of the Negotiable Instruments Act, by the Court of learned Magistrate, petitioner had filed an appeal i.e. CRA-77-2022 and same is pending adjudication before the learned ASJ, Sirsa.

On 30.07.2022, petitioner was suffering from fever and therefore, he prayed for exemption from personal appearance by moving an application in this regard. Vide order dated 30.07.2022, said application was dismissed by assuming that “*on account of depositing of 20% of the compensation amount, petitioner has not appeared intentionally before the Court*” . Therefore, while dismissing the bail

application of the petitioner, bail bonds were forfeited to the State and nonailable warrants were also issued against him for 01.10.2022.

Learned counsel for the petitioner further submits that if one chance for appearance is given, subject to payment of costs, petitioner is ready to join the proceedings before learned trial Court and he is also ready to pay 20% of the compensation amount.

Notice of motion.

On asking of the Court, Mr. Ashish Yadav, Addl. Advocate General, Haryana, accepts notice on behalf of respondent-State.

For deciding the issue in the matter, this court does not find it necessary to issue notice to respondent No. 2.

Heard learned counsel for the petitioner and respondent-State.

It is pertinent to note that once proclamation proceedings would start, that may also take sufficient time in its conclusion and proceedings of the trial, may get prolonged. Otherwise also, paramount consideration of the Court is to secure presence of the accused on each and every date, so that trial is completed at the earliest. In view of the circumstances discussed here-in-above, I am of the considered opinion that subject to payment of costs, petitioner could be granted one opportunity to appear before the Court and on his appearance he be released on bail also.

Accordingly, present petition is allowed. Petitioner is directed to appear before learned trial Court on or before 06.10.2022 and furnish an undertaking that he would not repeat such default and would join Court proceedings on each and every date, except with prior permission of the court.

It is further ordered that in case petitioner appears before the learned trial Court within time given, he would be released on bail, subject to furnishing bail/surety bonds to the satisfaction of the Court concerned.

However, this order shall be subject to payment of an amount of Rs.10,000/- as costs, to be deposited with the Member Secretary, District Legal Services Authority, Sirsa.

Needless to mention here that once petitioner complies with the conditions detailed here-in-above, impugned order dated 30.07.2022 (Annexure P-2), passed by learned Addl. Sessions Judge, Sirsa, would become inoperative qua petitioner.

Disposed of.

22.09.2022
Riya

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No