

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-43940-2022

Date of decision : 17.10.2022

Parshant Malhotra

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.A.P.S.Sandhu, Advocate
for the petitioner.

Mr. Ramdeep Partap Singh, Sr.DAG, Punjab.

Mr.Divesh Garg, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

This is a first petition under Section 482 Cr.P.C. with Section 438 Cr.P.C. praying for permission to appear before the trial Court in complaint no. NACT/2020/2018 dated 06.04.2017 filed under Section 138 of the Negotiable Instruments Act, 1881 and for setting aside the order dated 28.04.2022 vide which the bail of the petitioner was cancelled and bail bonds were forfeited and non-bailable warrants have been issued.

On 22.09.2022, this Court was pleased to pass the following order:-

“Inter alia contends that on 19.10.2021 the counsel for both the parties, i.e. the petitioner and the complainant had stated that the parties were interested in amicably settling the matter and thereafter on 01.12.2021 it was stated that no compromise has been effected and thereafter on 18.01.2022 the case was adjourned on account of Covid pandemic and the matter was adjourned to 14.03.2022 and on 14.03.2022 the learned Presiding Officer was on leave and accordingly the case was adjourned to 28.04.2022, on which date the petitioner did not appear and thus, the impugned order was passed. It is submitted that now the case is

fixed for 23.09.2022 and the petitioner will appear before the trial Court within a period of one week from today and also give an undertaking to appear on each and every date of hearing before the trial Court except the date on which his personal appearance is specifically exempted and in order to compensate the complainant for delay, the petitioner is ready to pay Rs.25,000/- to the complainant.

Notice of motion for 17.10.2022.

The petitioner is directed to appear before the trial Court within a period of one week from today and give an undertaking before the trial Court that he would appear on each and every date of hearing except the date on which his personal appearance is specifically exempted and also deposit an amount of Rs.25,000/- before the trial Court and on his doing so, the trial Court is directed to release the petitioner on interim bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court.

The trial Court is also directed to release the amount of Rs.25,000/- deposited by the petitioner, in favour of the complainant.

It is made clear that in case any of the above said conditions are not complied with, then the present petition would be liable to be dismissed”

Learned counsel for the petitioner has submitted that the petitioner was earlier unable to arrange the said amount of money and has arranged the same now and has prepared two demand drafts of Rs.20,000/- and Rs.5000/- in the name of the complainant Deepak Chopra and has handed over the same to learned counsel appearing for the complainant Deepak Chopra.

Learned counsel for the complainant has reaffirmed the fact that the said two demand drafts totalling to Rs.25,000/- have been handed over to him and he will hand over the same to the complainant. A photocopy of the same is taken on record as Mark A.

Learned counsel for the petitioner has submitted that the

petitioner would appear before the trial Court within a period of three weeks from today and would further give an undertaking to the trial Court that he would appear on each and every date of hearing, except the date on which his personal appearance has been specifically exempted.

Learned State counsel has stated that he has no objection to the said course of action.

Keeping in view the above said facts and circumstances, the present petition is allowed and the order dated 28.04.2022 vide which the bail of the petitioner has been cancelled and non-bailable warrants have been issued to the petitioner, is set aside subject to the petitioner appearing before the trial Court within a period of three weeks from today and also subject to the petitioner giving an undertaking to the trial Court that he would appear on each and every date of hearing except the date on which his personal appearance has been specifically exempted.

It is made clear that in case the petitioner does not appear before the trial Court as has been stipulated hereinabove, the present petition would be deemed to have been dismissed. It is further made clear that the payment of Rs.25,000/- shall not be construed as an admission of guilt on the part of the petitioner.

Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

October 17, 2022

Davinder Kumar