

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

CRM-M-46634-2022
Date of decision: 11.10.2022

Lakhwinder Singh

...Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Gurbachan Singh Bhatia, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks anticipatory bail in complaint No.600 dated 30.04.2018, tilted as 'Harash Goyal Vs. Lakhwinder Singh', under Section 138 N.I.Act, pending in the Court of learned Judicial Magistrate Ist Class, Sangrur, for 14.10.2022.

Learned counsel for the petitioner contends that vide order dated 02.08.2018 passed by the trial Court, the petitioner had been granted the benefit of bail; that the petitioner had been regularly appearing before the trial Court; that on 27.07.2022, the petitioner was not feeling well and, therefore, moved an application seeking exemption from his personal appearance; that however, the said application was declined by the trial Court, by imposing the costs of Rs.1,000/-, to be paid to respondent No.2-complainant; that on 17.08.2022, the petitioner neither caused appearance before the trial Court nor paid the aforesaid costs of Rs.1,000/- to respondent No.2, following which bail of the petitioner was cancelled and

warrant of arrest had been issued against him.

Learned counsel for the petitioner contends that since the petitioner moved an application seeking exemption from his personal appearance on 27.07.2022, therefore, he was not aware about the next date of hearing i.e. 17.08.2022; that it was only surety-Satnam Singh, who informed the petitioner about the pendency of the above-noted complaint for 14.10.2022. He further contends that absence of the petitioner before the trial Court was not intentional and that though proclamation proceedings have been initiated against the petitioner, yet he has not been declared a proclaimed offender so far. The petitioner is now ready to appear before the trial Court and pay the costs imposed by it.

Notice of motion to respondent No.1-State at this stage.

Notice is not being issued to respondent No.2 keeping in view the nature of the impugned order and further with a view to avoid delay in the final disposal of the above-noted complaint.

On the asking of this Court, Mr. Harkanwar Jeet Singh, AAG, Punjab, accepts notice on behalf of the respondent-State.

I have heard the learned counsel for the parties.

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-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.

The petitioner absented himself from the court proceedings. He

is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the facts and circumstances of the present case, but without going into the merits of the case, the present petition is allowed and the petitioner is directed to surrender before the trial Court/Duty Magistrate, on 14.10.2022 i.e. the date already fixed before the trial Court, subject to him depositing the costs of Rs.15,000/- with the District Legal Services Authority, Sangrur. In addition to it, the petitioner shall also make the payment of costs of Rs.1000/-, as imposed by the trial Court, to respondent No.2-complainant. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

11.10.2022

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No