

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

124

CRM-M-49291-2022 (O&M)

Date of Decision: 21.10.2022

ANEMA

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

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HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for quashing of the order dated 14.12.2021 passed by the learned Judicial Magistrate, 1st Class, Jalandhar, vide which the bail of the petitioner was cancelled; his bail/surety bonds were forfeited to the State and non-bailable warrants of arrest were issued.

Learned counsel for the petitioner submits that in a complaint filed under Section 138 of the Negotiable Instruments Act, 1881, the petitioner was summoned to face the trial; that the petitioner was regularly appearing before the trial Court; that the during the pendency of the trial, the case was put up before the National Lok Adalat on 11.12.2021 but the matter could not be settled and the case was adjourned to 14.12.2021 (the date on which the impugned order was passed) and that the petitioner had inadvertently noted the date as 24.12.2021 instead of 14.12.2021. It is, thus, contended that non-appearance of the petitioner was neither intentional nor wilful, but for the

reasons explained above. He further submits that till date the petitioner has not been declared as a proclaimed person/offender and that the case before the Court below is fixed for 31.10.2022.

Notice of motion to respondent No.1-State only.

On the asking of this Court, Mr. Subhash Godara, Additional Advocate General, Punjab, accepts notice on behalf of the respondent-State.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on a solitary date i.e. 14.12.2021, due to noting a wrong date and therefore, his non-appearance on the said date was unintentional.

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 the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Though the petitioner absented himself from the Court proceedings, yet she is now not required for any investigation or interrogation purposes and rather, she is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

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 trial Court/Duty

Magistrate, on or before the date fixed before it i.e. 31.10.2022, subject to her depositing the costs of Rs.15,000/- with the concerned District Legal Services Authority. On his doing so, the petitioner shall be released on bail, subject to her furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

21.10.2022

Aman Jain

Whether speaking/reasoned

Whether reportable

(HARNARESH SINGH GILL)

JUDGE

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Yes/No

Yes/No