

CRM-M-55767 of 2022 (O&M) and other connected cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55767 of 2022 (O&M)
Date of decision: -08.12.2022

1. Dharmendra M Gada
.....Petitioner
Versus

State of Haryana and another
.....Respondents

CRM-M-55845 of 2022 (O&M)

2. Jitendra M Gada
.....Petitioner
Versus

State of Haryana and another
.....Respondents

CRM-M-55862 of 2022 (O&M)

3. Dharmendra M Gada
.....Petitioner
Versus

State of Haryana and another
.....Respondents

CRM-M-55865 of 2022 (O&M)

4. Jitendra M Gada
.....Petitioner
Versus

State of Haryana and another
.....Respondents

CRM-M-55886 of 2022 (O&M)

5. Dharmendra M Gada
.....Petitioner
Versus

State of Haryana and another
.....Respondents

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CRM-M-55911 of 2022 (O&M)

6. Dharmendra M Gada

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CRM-M-55989 of 2022 (O&M)

7. Jitendra M Gada

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CRM-M-56025 of 2022 (O&M)

8. Dharmendra M Gada

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CRM-M-56029 of 2022 (O&M)

9. Jitendra M Gada

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CRM-M-56032 of 2022 (O&M)

10. Jitendra M Gada

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CRM-M-56044 of 2022 (O&M)

11. Jitendra M Gada

.....Petitioner

Versus

State of Haryana and another

.....Respondents

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CRM-M-56049 of 2022 (O&M)

12.Jitendra M Gada
.....Petitioner
Versus
State of Haryana and another
.....Respondents

CRM-M-56052 of 2022 (O&M)

13.Jitendra M Gada
.....Petitioner
Versus
State of Haryana and another
.....Respondents

CRM-M-56058 of 2022 (O&M)

14.Dharmendra M Gada
.....Petitioner
Versus
State of Haryana and another
.....Respondents

CRM-M-56097 of 2022 (O&M)

15.Jitendra M Gada
.....Petitioner
Versus
State of Haryana and another
.....Respondents

CRM-M-56106 of 2022 (O&M)

16.Dharmendra M Gada
.....Petitioner
Versus
State of Haryana and another
.....Respondents

CRM-M-56109 of 2022 (O&M)

17.Dharmendra M Gada
.....Petitioner
Versus
State of Haryana and another
.....Respondents

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CRM-M-56664 of 2022 (O&M)

18.Dharmendra M Gada

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. SaurabhDalal, Advocate, for the petitioner.
Ms. GaganpreetKaur, AAG, Haryana.

NAMIT KUMAR, J. (ORAL)

Complaint No.	Dated	Decided by	Sections
NACT/9512	08.05.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/17973	2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/394	05.01.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/3838	26.02.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/6015	04/05/2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/393	05.01.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/26365	09.08.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/6014	04.05.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/7538	05.06.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/26364	09.08.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/6014	04.05.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/12570	13.09.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/6015	04.05.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/8243	01.07.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/8219	23.04.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/9513	08.05.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/3844	26.02.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act
NACT/23217	02.07.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act

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This order shall dispose of 18 aforesaid petitions as the issue involved therein is identical. For brevity, facts are taken from CRM-M-55767-2022.

At the outset, learned counsel for the petitioner(s) submits that issue involved in the aforementioned petitions is squarely covered by the orders dated 22.11.2022 and 23.11.2022 passed by a Co-ordinate Bench of this Court in CRM-M-53925 of 2022 and CRM-M-54196 of 2022 and connected cases.

Challenging the order of proclamation, vide order dated 20.10.2022, passed by JMIC, Gurugram, due to the default in appearances before the trial court, the petitioner has come up before this Court.

The nature of order this Court proposes to pass, no response is required from the respondent.

Learned counsel for the petitioner contends that the non-appearance was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioner's control.

The primary object of service is to secure the accused's presence in trial. The petitioner has approached this Court on its own, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet. Furthermore, without adjudicating the maintainability of this petition under section 482 Cr.P.C. and leaving that question open; given the explanation offered by the accused coupled with the facts and

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circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. Thus, exercising the inherent powers under section 482 Cr.P.C., this Court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for protection, subject to the following terms and conditions, which shall be over and above and irrespective of the contents of the form of bail bonds in chapter XXXIII of Cr.P.C., 1973.

In *Mahidul Sheikh v. State of Haryana*, CRM-33030-2021 in CRA-S-363-2020, decided on 14-01-2022, Para 53, [Law Finder Doc Id # 1933969], this Court observed,

[53]. The pragmatic approach is that while granting bail with sureties, the “Court” and the “Arresting Officer” should give a choice to the accused to either furnish surety bonds or to handover a fixed deposit, or direct electronic money transfer where such facility is available, or creating a lien over his bank account. The accused should also have a further option to switch between the modes. The option lies with the accused to choose between the sureties and deposits and not with the Court or the arresting officer.

The petitioner is directed to surrender before the concerned Court **on or before January 10, 2023**. On appearance, the concerned Court shall release the petitioner on bail on the same day, subject to furnishing bail in the following terms and

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imposing reasonable conditions, as it may deem appropriate in the background of the accused's conduct.

Petitioner's counsel submits that since the petitioner belongs from outside the State he is not in a position to arrange sureties and hence instead of sureties he be permitted to deposit fixed deposits. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the complaints captioned above, in the following terms:

- (a). Petitioner to furnish personal bond of Rs. Ten thousand (INR 10,000/-); AND
- (b) Petitioner to hand over to the concerned court a fixed deposit for Rs. Ten Thousand only (INR 10,000/-), with the clause of automatic renewal of the principal and the interest reverting to the linked account, made in favour of the 'Chief Judicial Magistrate' of the concerned district. Said fixed deposit may be made from any of the banks where the stake of the State is more than 50% or any of the well-established and stable private sector banks. The fixed deposit need not necessarily be made from the petitioner's account.
- (c). Such court shall have a lien over the deposit until the case's closure or discharged by substitution, or up to the expiry of the period mentioned under S. 437-A Cr.P.C., 1973, and at that stage, subject to the proceedings under S. 446 Cr.P.C., the entire amount of fixed deposit, less taxes if any, shall be endorsed/returned to the depositor.
- (d). It shall be the total discretion of the petitioner to choose between surety bond and fixed deposit. It shall also be open for the petitioner to apply to the Investigator or the concerned court to substitute the fixed deposit with surety bonds and vice-versa.
- (e). On the reverse page of personal bond, the petitioner shall mention her/his permanent address along with the phone number, preferably that number which is linked with the AADHAR, and e-mail (if any). In case of any change in the above particulars, the petitioner shall immediately

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and not later than 30 days from such modification, intimate about the change to the concerned police station and the concerned court.

(f). The petitioner is to also execute a bond for attendance in the concerned court(s) as and when asked to do so. The presentation of the personal bond shall be deemed acceptance of the declarations made in the bail petition and all other stipulations, terms, and conditions of Section 438(2) of the Code of Criminal Procedure, 1973, and also of this bail order.

The order vide which the petitioner was declared a proclaimed offender, all warrants, LOC, and all consequent proceedings in the above mentioned complaint case shall remain stayed qua the petitioner, till 10th January, 2023. **It is clarified that if the petitioner fails to appear before the concerned court, then this order shall stand recalled automatically under section 362, read with 482 Cr.P.C., without any further reference to this Court.**

This order is subject to the petitioner(s) depositing a sum of rupees ten thousand (each), by the above-mentioned date, in the following account and hand over its receipt to the trial Court.

Account Name - HARYANA POLICE WELFARE FUND

Account No. - 50100097073807

Account Type - Saving Account

Bank Name - HDFC Bank, Sector-8, Panchkula

IFSC Code - HDFC000108

Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

No coercive steps to be taken till 10.01.2023.

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Petition allowed to the extent and subject to the conditions mentioned above. All pending applications, if any, stand disposed of.

08.12.2022
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No