

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114	CRM-M-53925-2022(O&M) Date of decision:22.11.2022
Dharmendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondent
114-2	CRM-M-54105-2022 (O&M)
Dharmendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondent
114-3	CRM-M-54109-2022 (O&M)
Dharmendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondent
114-4	CRM-M-54118-2022 (O&M)
Dharmendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondent
114-5	CRM-M-54137-2022 (O&M)
Dharmendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondent
114-6	CRM-M-54143-2022 (O&M)
Dharmendra M Gada	...Petitioner
Versus	
State of Haryana and another	...Respondent

114-7

CRM-M-54147-2022 (O&M)

Dharmendra M Gada

...Petitioner

Versus

State of Haryana and another

...Respondent

114-8

CRM-M-54152-2022 (O&M)

Dharmendra M Gada

...Petitioner

Versus

State of Haryana and another

...Respondent

114-9

CRM-M-54158-2022 (O&M)

Dharmendra M Gada

...Petitioner

Versus

State of Haryana and another

...Respondent

114-10

CRM-M-54159-2022 (O&M)

Dharmendra M Gada

...Petitioner

Versus

State of Haryana and another

...Respondent

114-11

CRM-M-54160-2022 (O&M)

Dharmendra M Gada

...Petitioner

Versus

State of Haryana and another

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Saurabh Dalal, Advocate for the petitioner(s)

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

Complaint No.	Dated	Decided by	Sections
NACT/16794	2017	JMIC Gurugram	138/142 of Negotiable Instruments Act.

NACT/2129	04.02.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/8219	23.04.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/8245	01.07.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/23215	02.07.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/11258	21.08.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/8246	01.07.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/3838	26.02.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/8218	23.04.2018	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/7538	05.06.2017	JMIC Gurugram	138/142 of Negotiable Instruments Act.
NACT/2130	04.02.207	JMIC Gurugram	138/142 of Negotiable Instruments Act.

This order shall dispose of 11 aforesaid petitions as the issue involved therein is identical. For brevity, facts are taken from CRM-M-53925-2022.

1. Challenging the order of issuance of non-bailable warrant and further issuance 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.
2. The nature of order this court proposes to pass, no response is required from the respondent.
3. Ld. 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.
4. 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 CrPC and leaving that question open; given the explanation offered by the accused coupled with the facts and 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 CrPC, this court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

5. 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 CrPC, 1973.

6. 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.

7. The petitioner is directed to surrender before the concerned court **on or before 10th January , 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 imposing reasonable conditions, as it may deem appropriate in the background of the accused's conduct.

8. 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 favor 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 CrPC, 1973, and at that stage, subject to the proceedings under S. 446 CrPC, 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 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.

9. The petitioner to execute a bond for attendance in the concerned court. On the reverse page of personal bonds, the petitioner shall mention the permanent address, along with the phone number preferably that number which is linked with the AADHAR card, the other phone numbers (if any), and e-mail (if any). In case of any change in the above particulars, the petitioner shall immediately and not later than 30 days from such modification, intimate about the change to the concerned Police Station and the concerned Court.

10. The order vide which non-bailable warrant and proclamation was issued and all consequent proceedings in the above mentioned complaints shall remain stayed qua the petitioner, till Jan 10th, 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 CrPC, without any further reference to this court.**

11. This order is subject to the petitioner(s) depositing a sum of rupees three thousand in each case, 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

12. 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.

13. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

No coercive steps to be taken till 10.01.2023.

Petition allowed to the extent and subject to the conditions mentioned above.

All pending applications, if any, stand disposed.

Trial be expedited.

(ANOOP CHITKARA)
JUDGE

22.11.2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.