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

CRM-M-54100-2022

Date of Decision: 21.11.2022

LOKESH KUMAR

..... Petitioner

Versus

STATE OF UT, CHANDIGARH AND ANR. Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. R.S. Hooda, Advocate for the petitioner.

Mr. Ankur Bali, APP U.T. Chandigarh.

JAGMOHAN BANSAL, J. (Oral)

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking quashing of order dated 12.05.2022 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Chandigarh whereby bail bonds furnished by the petitioner have been cancelled and non-bailable warrants of arrest are issued against the petitioner.

Learned counsel for the petitioner contends that petitioner was released on regular bail and thereafter regularly appeared before learned Trial Court. The alleged offence is bailable and compoundable. The petitioner has already paid a substantial amount to the private respondent. The petitioner was under impression that respondent is going to withdraw his complaint filed under Section 138 of Negotiable Instruments Act, 1881. The petitioner is ready to pay costs of Rs.10,000/-.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

The object of arrest is neither punitive nor preventive. Detention or arrest not only deprives a person from his fundamental right of personal liberty guaranteed by Article 21 but also freedom guaranteed by Article 19(1) of our Constitution. Life of every human being is most precious gift of God and everyone has very limited span of life which cannot be spoiled on account of incompetence, personal grudge, vengeance of someone; or brutal, illegal, unethical action of the State machinery. Except habitual offender, commoners living simple life after arrest lose self-respect and confidence within himself as well State. It has become very common to put criminal law in motion even though dispute involved is purely contractual or civil in nature. Many times arrest entails deprivation of source of income of entire family besides forever stigma in a closely knit society like ours. There is neither mechanism to compensate a man who is later on found innocent nor acquittal can return valuable time, energy, status, future of family members especially children which is lost on account of incarceration of bread earner of the family. Imprisonment before conviction is a sort of punishment especially when rate of conviction in our country is abysmally low.

Keeping in mind:

- i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus ,his presence would meet ends of justice;
- ii) The Petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs. 10,000/-;
- iii) The Petitioner is ready to furnish bond/surety to the satisfaction of the trial court;
- iv) The Petitioner is not involved in any other offence except cheque dishonor of cheques;
- v) The petitioner is resident of Chandigarh and trial is pending at Chandigarh thus jurisdictional court and police authorities have direct access over the activities of the petitioner.
- vi) The petitioner was initially granted regular bail by Trial Court and petitioner thereafter on many date appeared before trial court;
- vii) The petitioner is accused of commission of bailable and compoundable offence.
- viii) Trial is pending since 2020 and petitioner is ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;

this court is of the considered opinion that present petition

needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before Trial Court on 29.11.2022 and furnish fresh bail bond/surety bond to its satisfaction. The petitioner, as agreed shall pay costs of Rs.10,000/- to respondent No.2.

Disposed of.

(JAGMOHAN BANSAL)
JUDGE

21.11.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>