

CRM-M-55626-2022

Date of decision: 01.12.2022

PARAMJIT SINGH

...Petitioner

 V/s

HDFC BANK

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

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

DEEPAK MANCHANDA J. (ORAL)

This petition has been filed under Section 482 of Cr.P.C. praying for quashing of order dated 05.04.2021 passed by learned Judicial Magistrate Ist Class, Jalandhar (Annexure P-4) in complaint case No. NACT/376/2019 instituted on 11.01.2019 titled as “HDFC Bank Limited Vs. Paramjit Singh” under Section 138 of Negotiable Instruments Act.

Learned counsel for the petitioner contends that vide order dated 22.02.2019, the petitioner was summoned to face trial under Section 138 of the NI Act. Consequent upon thereto, petitioner appeared before the learned Court below. During the pendency of trial, a compromise was effected between the complainant-bank and the petitioner whereby, bank undertook to withdraw the complaint against the petitioner on deposit of entire outstanding loan amount. In view of the same petitioner started paying the loan amount and was under the impression that complainant bank has withdrawn the aforesaid complaint from the Court below. But later he came to know that bank had not withdrawn the complaint against the petitioner and non-bailable warrants were issued against the petitioner on account of his non-appearance on 05.04.2021 and his bail bonds and surety bonds were cancelled. Hence, his absence was unintentional and bona fide.

Reasons for the same have been mentioned in para Nos. 7 and 8 of the present

petition. The absence of the petitioner resulted into passing of the order dated 05.04.2021 (Annexure P-4), whereby the learned trial Court proceeded to cancel his bail and issued the non-bailable warrants.

He further submits that the petitioner is ready and willing to join the trial proceedings.

A perusal of the order dated 05.04.2021 (Annexure P-4) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail on the ground of non-appearance of the petitioner without issuing him any notice of appearance and the order was passed in a technical manner.

Many a times, the accused can be prevented by sufficient reasons to put in appearance before the Court on a given date, which necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non-appearance and unintentional absence before the trial Court is accepted.

In view of the same, the order dated 05.04.2021 (Annexure P-4) is hereby set aside. The petitioner is directed to appear before the trial Court on 08.12.2022 and is allowed to remain on bail on the same bail bonds and surety bonds.

In case, the petitioner does not appear before the trial Court on the given date, the orders dated 05.04.2021 (Annexure P-4), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

01.12.2022

Ajay Goswami