

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

CRM-M-7887-2023

Date of Decision: February 14, 2023

Harnek Singh

.....Petitioner

Versus

The Ghanaur Primary Cooperative Agricultural Development Bank
Ltd.

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Simranjeet Singh Sarwara, Advocate
for the petitioner.

HARKESH MANUJA, J (ORAL)

By way of present petition under Section 482 Cr.P.C., prayer has been made for quashing of order dated 03.01.2023 passed by the Court of Additional sessions Judge, Patiala, whereby prayer made by the petitioner seeking extension of time for the purpose of furnishing bail bonds/ surety bonds stands declined.

Facts of the case are that on account of dishonor of cheque bearing No. 000002 dated 31.12.2015 amounting to Rs.3.60 lacs, a complaint under Section 138 of the Negotiable Instruments Act, 1881, for short 'the Act', came to be filed at the instance of respondent before the Court of learned Judicial Magistrate Ist Class, wherein the petitioner was convicted vide judgment dated 08.09.2022.

Aggrieved thereof, the petitioner filed first appeal; wherein sentence of the petitioner was ordered to be suspended vide order dated 06.10.2022 subject to furnishing of bail bonds to the tune of

Rs.50000/- with one surety of the like amount to be furnished before the Illaqa Magistrate/ Duty Magistrate within a period of 15 days.

Having failing to do the needful in pursuance to order dated 06.10.2022, the petitioner moved an application before the first Appellate Court seeking extension of time for the purpose of furnishing of bail bonds and surety bonds while submitting that the petitioner was not keeping good health.

The aforesaid application came to be dismissed by the Court of Additional Sessions Judge, Patiala vide order dated 03.01.2023 which has been impugned by way of present petition.

Learned counsel for the petitioner submits that the petitioner could not furnish his bail bonds/ surety bonds within the prescribed time on account of he being suffering from high temperature. Learned counsel further submits that non-furnishing of bail bonds/ surety bonds within the prescribed time limit occurred only on account of bonafide reasons without there being any malafide on the part of the petitioner. He also submits that the petitioner, if granted an opportunity, shall furnish bail bonds/ surety bonds within a period of 07 days from today and undertake to appear before the first Appellate Court on each and every date of hearing unless granted exemption(s) specifically.

I have heard learned counsel for the petitioner and gone through the paper-book.

In the absence of any medical record having been produced by the petitioner either before this Court or even before the

Court of learned Additional Sessions Judge, Patiala, there appears to be no reasonable justification on the part of the petitioner while having failed to furnish the bail bonds and surety bonds within the period prescribed by the first Appellate Court vide order dated 06.10.2022, however, purely in the interest of justice and to balance the equities, petitioner is afforded 07 days time so as to furnish bail bonds and surety bonds before the Illaqa Magistrate/ Duty Magistrate in compliance of the order dated 06.10.2022; whereby he was granted the benefit of suspension of sentence during the pendency of first appeal.

Consequently, the petition is disposed of in the above terms subject to petitioner’s furnishing an undertaking before the first Appellate Court by way of an affidavit to the effect that he shall continue to appear before the first Appellate Court on each and every date of hearing unless granted exemption specifically. The aforesaid order shall, however, be subject to payment of costs of Rs.10000/- to be paid to the respondent before the trial Court.

Keeping in view the nature of proceedings, the present petition is being decided without issuing notice to the respondent, lest it may cause further delay in disposal thereof.

February 14, 2023
sanjay

[HARKESH MANUJA]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no