

CRM-M-15471-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: 15.09.2023

Yogesh Kalra

....Petitioner

V/s

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Pawan Attri, Advocate for the petitioner.

Mr. Vikas Bhardwaj, AAG Haryana.

ARUN MONGA, J. (Oral)

Present petition has been filed under Section 482 Code of Criminal Procedure for quashing of impugned order dated 06.01.2023 (Annexure P-1) passed by learned Judicial Magistrate, Ist Class, Kaithal, whereby petitioner was declared as a proclaimed person in complaint CIS No. NACT-1269-2017 dated 27.10.2017 and all subsequent proceedings emanating therefrom.

2. On an earlier occasion, a coordinate Bench seized of the matter, while issuing notice of motion, passed an order dated 10.04.2023, being *apposite*, same is reproduced herein below:

“Learned counsel for the petitioner contends that despite noticing the fact that the petitioner was no longer living at the given address, initially warrants of arrest were issued vide order dated 28.10.2022 and thereafter on 23.11.2022, proceedings under Section 82 Cr.P.C were initiated despite the fact that warrants of arrest had been received back un-executed with the report that the petitioner had left the given address. It has been submitted that without ever summoning the petitioner, proceedings under Section 82 Cr.P.C., were initiated and the petitioner were declared as a proclaimed person. He further submits that the petitioner is willing to submit to the jurisdiction of the Court and contest the complaint filed under the Negotiable Instruments Act 1881, but apprehends that the moment he appears, he shall be taken into custody because of the petitioner having been declared a proclaimed person.

Notice of motion.

On the asking of the Court, Mr. Surender Singh, A.A.G., Haryana, accepts notice on behalf of the respondent-State.

Notice to respondent No.2 be issued to dasti.

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If the petitioner appears before the trial Court within a period of 10 days from today, he shall be released on interim bail to the satisfaction of the trial Court.

List on 12.07.2023.

Till then operation of the order dated 06.01.2023 shall remain stayed.”

3. *Apropos, pursuant to order aforesaid order, petitioner has joined the proceedings and was admitted to interim bail on his furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount. Order dated 17.04.2023 passed by trial Court is reproduced herein below:*

“File taken up today as an application for putting up the case file as well as an application for surrender and bail has been moved by ld. Counsel for applicant/accused. The ld. Counsel for accused submitted that accused has already been granted interim bail vide order dated 10.04.2023 passed by Hon'ble Punjab and Haryana High Court Chandigarh in CRM-15471 of 2023. Copy of order annexed with application.

Power of attorney on behalf of accused filed.

Accused surrendered in the court as accused has already declared proclaimed person vide order dated 06.01.2023.

Original file summoned from record room, as per which accused was declared proclaimed person on dated 06.01.2023 and file was ordered to be consigned vide order dated 06.01.2023. Original file is ordered to be restored on its original number. The order of Hon'ble High Court has duly been confirmed by concerned Ahlmad.

Heard. In compliance of order dated 10.04.2023 passed by Hon'ble Punjab and Haryana High Court Chandigarh in CRM-15471 of 2023 accused is admitted to interim bail subject to furnishing bail bonds in the sum of Rs. 1,00,000/- with one surety in the like amount. Requisite bonds on behalf of accused furnished, accepted and attested.

Intimation be given to the appropriate registering authority to make endorsement on the original document of the surety regarding the fact that he stood as surety in the case in compliance of order of Hon'ble Punjab & Haryana High Court in CWP No. 4898 of 2018 titled Hari Chand Vs. U.T. Chandigarh and Ors.

Arguments upon notice of accusation heard. From the perusal of the evidence of the complainant and other accompanied documents, a prima facie case punishable under Section 138 of Negotiable Instrument Act is made out against the accused. Accordingly, the notice of accusation served upon the accused, to which he pleaded not guilty and claimed trial.

Plea of defence has been placed on record.

Accused through his counsel has moved an application seeking permission to cross-examine complainant and other witnesses. Reply not filed. However, learned counsel for complainant opposed the application by way of arguments, submitting that the same has been filed just to delay the decision of

case, by way of taking a sham defence. Heard on application. Since, the accused in his plea of defence has raised arguable points and therefore, it would be in the interest of justice, to allow application under Section 145 (2) of NI Act. Accordingly, application stands allowed. Now, the case is adjourned to 05.05.2023 for evidence of complainant at own responsibility.”

4. In view of aforesaid, no further proceedings under Section 82/83 Cr.P.C. are warranted. Accordingly, order 06.01.2023 (Annexure P-1) is hereby set aside along with all consequential proceedings arising therefrom against the petitioner, are quashed.

5. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 15, 2023

Ajay

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No