

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

CRM-M-15965-2023

Date of decision : 29.03.2023

Subhash Chander @ Subhash

.....Petitioner

versus

Sunil Kumar

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Naresh Kaushik, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for impugning the order dated 20.03.2023 whereby the bail application filed by the petitioner for surrender and bail was dismissed by learned Additional Sessions Judge, Sonipat passed in Criminal Appeal vide CRA No.132 of 2019 titled as Subhash Chander Vs. Sunil Kumar against judgment and order of conviction and sentence dated 07.03.2019 for commission of offence under Section 138 of NI Act.

Learned counsel for the petitioner submits that the petitioner was convicted under Section 138 of Negotiable Instruments Act by learned trial Court vide order dated 07.03.2019. He further submits that petitioner assailed the same by way of filing the appeal before the learned Additional Sessions Judge and paid 20% of the total amount on 29.07.2021 as directed. He submits that the sentence of the petitioner was suspended by learned Appellate Court and he duly attended the proceedings before the learned Appellate Court. However, P.O. proceedings were initiated against him on 03.03.2023. He submits that on the very same date, he filed an application for surrender and grant bail to him. He submits that notice was issued by the learned Appellate Court in the bail application, however, the same was illegally declined by learned trial Court vide impugned order dated 20.03.2023. He submits that the

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absence of the petitioner from the Court was totally unintentional and he surrendered as well and was taken into custody. He submits that the petitioner has already deposited 20% of the total amount as well.

After hearing counsel for the petitioner and perusing the record, it is apparent that the petitioner had deposited 20% of the cheque amount on 29.07.2021. Though the PO proceedings were initiated against him on 03.03.2023, however, as evident from the record, he surrendered on the very same date. Keeping in view the facts and circumstances of the case, this Court is of the opinion that the petitioner deserves to be granted bail subject to payment of Rs.25,000/- as costs to be deposited in the Punjab and Haryana High Court, Bar Association Lawyer's Welfare Fund, Chandigarh by the petitioner in one week from today.

Accordingly, order dated 20.03.2023 passed by learned Additional Sessions Judge, Sonipat is hereby *set aside*. In case the petitioner files an application for bail along with receipt of cost within 10 days from today, he be released on bail by learned Appellate Court to its satisfaction. Needless to say that in case the petitioner fails to comply with the abovesaid direction, he will have no benefit of abovesaid order of this Court and order under challenge dated 20.03.2023 would come in force.

29.03.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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