

CRM-M-31520 of 2016

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

CRM-M-31520 of 2016
Date of decision: 27.02.2023

Lakhbir Singh

.....Petitioner

versus

Amandeep Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

Mr. Rajesh Sethi, Advocate,
for the respondent.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for quashing of impugned order dated 09.08.2016 (Annexure P-4) passed by learned Additional Sessions Judge, Sirsa, whereby application moved by the petitioner has been rejected and warrants of his arrest have been issued after cancelling his bail bonds and forfeiting the same to the State.

Learned counsel for the petitioner contends that vide judgment of conviction dated 16.01.2014 passed by learned SDJM, Ellenabad, and order of sentence dated 17.01.2014 petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years under Section 138 of the Negotiable Instruments Act, 1881 and to pay compensation to the tune of Rs.8,00,000/- i.e. twice the cheque amount of

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Rs.4,00,000/- in terms of Section 357(3) Cr.P.C. to the complainant within two months from the date of judgment, in default of payment of compensation within the stipulated period, he was further to undergo rigorous imprisonment for one month. He further submits that against the judgment of conviction and order of sentence, petitioner preferred an appeal before the learned Sessions Judge, Sirsa, wherein he was released on bail. Thereafter, he kept on appearing before the appellate Court regularly, however, due to death of his relative he could not appear on 09.08.2016 and his counsel filed application for exemption from personal appearance before the Court. He submits that the said application was wrongly dismissed by the appellate Court vide order dated 09.08.2016 and warrants of his arrest have been issued after cancelling his bail bonds and forfeiting the same to the State. He further submits that the petitioner is a victim of circumstances, which were beyond his control. He further submits that the petitioner is ready and willing to join the proceedings and undertakes to be present in Court on each and every date.

Learned counsel for the respondent submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the appellate Court.

A perusal of the order dated 09.08.2016 (Annexure P-4) reflects that the appellate Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be

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construed as a deliberate and willful absence. The explanation offered for non appearance before the Court is justified and therefore, the same is accepted.

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 the proceedings and undertakes to appear before the appellate Court on each and every date, thus, his presence would meet ends of justice.

Considering the above sequence of events, the impugned order 09.08.2016 (Annexure P-4) is set aside subject to appearance of the petitioner before the appellate Court on or before 30.03.2023 and on his doing so, he shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of the appellate Court, subject to payment of costs of Rs.20,000/- to the respondent within a period of two weeks from the date of passing of this order. In the event of non-compliance of this order, the order dated 09.08.2016 would remain intact. LCR, if any, be sent back to the quarter concerned.

The petition is disposed of in above terms.

27.02.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No