

2023:PHHC:054136
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

106/3

CRM-M-17880 of 2023
DATE OF DECISION:- 13.04.2023

Naseem Ahemad @ Nasim Ahmad

...Petitioner

vs.

State of Punjab and another

...Respondent

CRM-M-17909 of 2023

Naseem Ahemad @ Nasim Ahmad

...Petitioner

vs.

State of Punjab and another

...Respondent

CRM-M-17913 of 2023

Naseem Ahemad @ Nasim Ahmad

...Petitioner

vs.

State of Punjab and another

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Anmol Jindal, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

HARKESH MANUJA, J.

This order of mine shall disposed of aforementioned three criminal miscellaneous petitions as common questions of law and facts are involved in it. For convenience facts are taken from CRM-M-17880 of 2023 and the parties will be referred by their status in the present case.

In the present petition, prayer has been made for quashing of the impugned order dated 24.11.2022 whereby, the bail bonds of the petitioner was cancelled followed by forfeiture of surety bonds and issuance of non-bailable warrants against him by the trial Court in complaint under Section

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138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as “the Act”)

The facts are that on account of dishonour of 3 different cheques, 3 separate complaints under Section 138 of the Act, were filed against the petitioner wherein he was summoned vide three separate orders dated 03.12.2016 passed in different complaints. Having appeared in all the three complaints, petitioner was granted concession of regular bail by the trial Court in the first half of January 2018 and since then he has been regularly appearing before the Court but for 04.11.2022, when on account of some mis-communication about the date of hearing with the counsel, petitioner could not present himself before the trial Court. On 04.11.2022, the matter was adjourned by the Court below for 24.11.2022, however, on account of some personal engagement, the petitioner again could not appear before the concerned Court, resulting into cancellation of his bail bonds followed by forfeiture of his surety bonds and issuance of non-bailable warrants against the petitioner.

Impugning the same in three separate petitions, learned counsel for the petitioner submits that non-appearance of the petitioner before the Court concerned was wholly unintentional and on account of *bona fide* reasons as there was some mis-communication between the petitioner and his counsel whereas on 24.11.2022, petitioner was occupied in some personal engagement and accordingly, a prayer was made before the trial Court through his counsel for seeking exemption from personal appearance, however, the same was not accepted. Learned counsel also submits that petitioner shall furnish an undertaking before the trial Court so as to continue to appear before the Court on all subsequent hearings except having

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been granted exemptions specifically.

On the other hand, prayer made herein has been vehemently opposed by the learned State counsel while appearing on behalf of respondent No.1. Learned State counsel submits that the petitioner has deliberately chosen not to appear before the Court concerned just with an idea to delay the proceedings.

I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

Having been summoned in the three complaints vide order dated 03.12.2016, petitioner appeared before the trial Court and was granted concession of regular bail in the first half of January, 2018 and has been regularly appearing thereafter. In these facts, I do not find any reasons at this stage to disbelieve the petitioner for the cause mentioned by him for his non-appearance on the date fixed i.e. 04.11.2022 and 24.11.2022. Considering the aforesaid facts, present petitions are allowed and the order dated 24.11.202 passed by the trial Court in all three complaints are hereby quashed thereby granting the petitioner liberty to appear before the trial Court on 25.04.2023 i.e. the date fixed and furnish his fresh bail bonds/surety bonds to its satisfaction. In addition, petitioner shall also furnish an undertaking before the trial Court in all the three cases that he shall continue to appear during trial on each and every date of hearing, except having been granted exemption specifically.

However, the aforesaid order shall be subject to payment of costs of Rs.20,000/-to be paid in total to the complainant.

The present petitions are disposed of without issuing notice to

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respondent No.2 lest it may delay the disposal of the complaints filed by it.

A photocopy of this order be placed on the file of connected matters.

13.04.2023

anil

(HARKESH MANUJA)

JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No