

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

117

CRM-M-20206-2023

Date of decision:24.04.2023

BALWINDER SINGH BERNARD

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND ANR

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH

Present: Ms. Savita Rana, Advocate
for the petitioner.

Ms. Himani Arora, AAG Punjab.

GURBIR SINGH, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 23.02.2023 (Annexure P-5) passed by the Court of Ld. Judicial Magistrate, Ist Class-4, Jalandhar in NACT No.22691 of 2022 (wherein Non-bailable warrant of arrest against the petitioner has been issued without any justifiable reason) along with all subsequent proceedings arising out of the impugned order (Annexure P-5).

Learned counsel for the petitioner submits that petitioner is summoned in the complaint case and in NACT No.22691 of 2022 under Section 138 of the Negotiable Instruments Act. Petitioner did not receive the summons. The learned Judicial Magistrate First Class, Jalandhar vide order dated 23.02.2023 (Annexure P-5) has ordered to issue non-bailable warrant of arrest against the petitioner.

Heard.

In a bailable case, if a person surrenders or appears in the Court then such person is entitled for bail.

Section 436 of Cr.P.C. is as under :-

*“When any person other than a person accused
of a non-bailable offence is arrested or detained without*

warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail; Provided that such officer or Court, if he or it thinks fit, may, and shall, if such person is indigent and is unable to furnish surety, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided; Provided further that nothing in this section shall be deemed to affect the provisions of Sub-Section (3) of section 116 or section 446A.

Notwithstanding anything contained in Sub-Section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.”

Since the petitioner never appeared in the Court. The petitioner is directed to surrender within a week before the trial Court. On his appearance, he shall be released on bail to the satisfaction of the concerned Trial Court/Duty Magistrate, on furnishing bail bonds/surety bonds.

Petition stands disposed of.

(GURBIR SINGH)
JUDGE

24.04.2023
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