

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

CRM-M-24802-2023

Date of Decision: 25.05.2023

Shamsher Singh

..... Petitioner

Versus

Rajinder Singh and another

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Pankaj Bali, Advocate, for the petitioner.

Mr. Kirpal Singh Thakur, Asstt. Advocate General, Haryana.

Rajesh Bhardwaj, J. (ORAL)

Prayer in the present petition is for the grant of regular bail to the petitioner in a case CRA No.512/2019 dated 17.08.2019 under Section 138 of Negotiable Instruments Act pending in the Court of learned Additional Sessions Judge, Karnal in a case titled as Shamsher Singh Vs. Rajinder Singh.

As per facts of the case, the petitioner had been prosecuted in a complaint under Sections 138 and 142 of the Negotiable Instruments Act filed by respondent-complainant, namely Rajinder Singh. As per the allegations made in the complaint, the petitioner issued a cheque of Rs.1,80,000/- to the complainant, which on presentation was dishonoured with the remarks "Funds Insufficient" and despite having been issued the notice, the petitioner failed to make the payment of the same and hence, he was prosecuted by the complainant in the complaint. The learned trial court on the conclusion of the trial, found the charges to have been proved against the petitioner and thus, convicted him vide order dated 18.07.2019 by sentencing for a period of six months of simple imprisonment. The petitioner assailed the same by way of filing appeal before the learned Appellate Court. Learned Appellate Court vide order dated 04.12.2019, directed the petitioner to deposit 20% of the amount of compensation

amounting to Rs.36,000/- till 09.01.2020. However, the petitioner failed to deposit the same and remained absent from the proceedings before the Appellate Court. Subsequently, he was declared proclaimed person vide order dated 30.03.2022. However, lateron he was arrested on 01.05.2023. The petitioner approached the Court of learned Additional Sessions Judge, Karnal praying for grant of bail, however, the learned Court after hearing both the sides, dismissed the same vide its order dated 02.05.2023. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of bail.

Learned counsel for the petitioner has vehemently contended that the petitioner is 70 years old person, who had been falsely prosecuted by the complainant-respondent. He submits that after having been convicted by the trial Court, sentence of the petitioner was suspended by the learned Appellate Court, but as the petitioner failed to deposit 20% of the amount of compensation on account of some unavoidable circumstances, he was arrested on 01.05.2023. He submits that de hors the merits of the case, the petitioner has already deposited 20% of the amount of compensation amounting to Rs.36,000/- before the learned Appellate Court on 24.05.2023. He has drawn the attention of this Court to the order passed by the learned Additional Sessions Judge, Karnal dated 24.05.2023 observing that the petitioner has deposited 20% of the amount of the compensation. He submits that appeal filed by the petitioner is most likely to succeed and he has already complied with the order passed by the learned Appellate Court. He also submits that marriage of the daughter of the petitioner is fixed for 29.05.2023 and hence, in the facts and circumstances, the petitioner be released on bail.

On the other hand, learned State counsel has submitted that the

petitioner intentionally did not comply with the order passed by the learned Appellate Court and he was declared proclaimed person on 30.03.2022 and subsequently, he was arrested on 01.05.2023. He submits that as per his instructions, the petitioner has no criminal antecedents.

Heard.

Evidently, the petitioner was prosecuted in the complaint under the Negotiable Instruments Act and he was convicted by the trial Court vide order dated 18.07.2019. The petitioner assailed the same before the learned Appellate Court and the Appellate Court directed him to pay 20% of the amount of compensation, which he failed. Though the petitioner is behind bars since 01.05.2023, but admittedly he has already deposited 20% of the amount of compensation before the learned Appellate Court on 24.05.2023. There is nothing on record to show that the petitioner has any criminal antecedents. This Court would refrain itself from commenting anything on the merits of the case, however, considering the prayer for grant of bail to the petitioner, I am of the view that learned counsel for the petitioner has been able to make out a case for grant of regular bail to the petitioner. The trial would take sufficiently long time for its conclusion.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said herein shall be treated as an expression of opinion on the merits of the case.

25.05.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No