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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-32945-2023

DATE OF DECISION: 14.07.2023

Ahuja Cotspin Private Limited and another*Petitioners*
Versus
M/s Roshan Lal and Company*Respondent*

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

Present: Mr. Anand Chhibbar, Senior Advocate with
Mr. Vaibhav Sahini, Lalit Thakur and
Ms Khyati Avnish, Advocates for the petitioners

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Rajbir Sehrawat, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, praying for quashing of impugned orders dated 20.01.2023 and 16.03.2023 (Annexure P-9) whereby bail of petitioner No. 2 has been cancelled and he has been summoned through warrants of arrest and further notice under Section 446 of the Code of Criminal Procedure has been issued against surety of petitioner No. 2; order dated 28.04.2023 (Annexure P-10) whereby presence of petitioner No. 2 has been ordered to be secured through proclamation under Sections 82/83 Cr.P.C. and order dated 30.05.2023 (Annexure P-12) in NACT Complaint No. 1324 of 2020 titled '*M/s Roshan Lal and Company vs. M/s Ahuja Cotspin Private Limited and another*' under Sections 138 of the Negotiable Instrument Act, 1881, vide which the trial Court has declined the application under Section 70 (2)

Cr.P.C. for withdrawal of warrants of arrest of petitioner No. 2 with certain other prayers.

2. It is admitted by counsel for the petitioners that petitioner No. 2 has been appearing before the trial Court regularly. However, on two dates, petitioner No. 2 could not appear because of his medical conditions, as well as, of his son and on remaining two dates, petitioner No. 2 had moved an application for exemption; which was granted by the trial Court. However, on 20.01.2023, petitioner No. 2 could not put in appearance before the trial Court and as a result thereof, bail bounds furnished by petitioner No. 2 have been forfeited and he was ordered to be served through non-bailable warrants. However, the said warrants never came to the knowledge of petitioner No. 2, therefore, he could not appear before the trial Court. Thereafter, the trial Court had initiated the proceedings under Sections 82/83 Cr.P.C. However, petitioner No. 2 does not have the intention to avoid the process of the Court. In any case, petitioner No. 2 undertakes to appear before the trial Court without any further default.

3. Notice of motion.

4. On the asking of Court, Mr. Sandeep Singh, Additional Advocate General, Punjab accepts notice on behalf of the respondent – State and submits that the State has no objection, if the petitioners appear before the trial Court.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain present before the Court to receive the orders and punishments are passed qua the accused. If the accused shows his sincere intention and desire to appear

before the Court, then it would not be unjustified to protect him from being arrested.

6. In view of the above, the present petition is allowed subject to petitioner No. 2 appearing before the trial Court on or before 15.07.2023. It is further directed that in case petitioner No. 2 so appear before the trial Court on or before 15.07.2023 then he shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate.

7. A copy of this order be supplied to counsel for the petitioners under the signatures of the Bench Secretary of this Court, today positively.

(Rajbir Sehrawat)
Judge

July 14, 2023

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