

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

139

CRM-M-41165-2023 (O&M)
Date of decision: 21.08.2023

SUKHDEV SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ajiteshwar Singh, Advocate for the petitioner.

Mr. C.L. Pawar, Addl. AG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is for quashing of the order dated 15.10.2022, passed by the learned Chief Judicial Magistrate, Taluka Court, Phillaur, Jalandhar, in case bearing registration No.NACT/201/2016 titled as 'Makhan Singh V. Sukhdev Singh' filed under Section 138 of the Negotiable Instruments Act, 1881, Police Station Bilga, Phillaur and FIR No.15 dated 04.02.2023 registered under Section 174-A IPC at Police Station Bilga, Jalandhar Rural.

At the outset, learned counsel for the petitioner submits that he does not pressing for quashing of FIR No.15 dated 04.02.2023 registered under Section 174-A IPC at Police Station Bilga, Jalandhar Rural.

Ordered accordingly.

Learned counsel for the petitioner submits that a criminal complaint under Section 138 of the Negotiable Instruments Act was filed against the petitioner and he appeared before the learned trial Court on 03.03.2017; that thereafter, because of Covid-19 Pandemic, he lost the track

of the case and after resumption of normal functioning of the Courts, he failed to appear before the learned trial Court and that vide order dated 21.01.2022, notice was issued to the petitioner for 17.03.2022.

Learned counsel for the petitioner has also drawn the attention of this Court towards the proclamation issued on 10.09.2022 against the petitioner, whereby the next date of appearance was shown as 17.09.2022; that mandatory provision of Section 82 Cr.P.C. requiring a notice of 30 days from the date of proclamation to the date of appearance was not complied with. The petitioner is ready to appear before the learned trial Court to face the trial.

Notice of motion.

On the asking of this Court, Mr. C.L. Pawar, Addl. AG Punjab, accepts notice on behalf of the respondent-State and opposes the submissions made by the learned counsel for the petitioner.

I have heard the learned counsel for the parties.

It is a case, wherein, the petitioner could not appear before the learned trial Court due to Covid-19 Pandemic situation and therefore, his non-appearance before the learned trial Court appears to be unintentional.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Keeping in view the above fact, the order dated 15.10.2022, passed by the learned Chief Judicial Magistrate, Taluka Court, Phillaur, Jalandhar, in case bearing registration No. NACT/201/2016 titled as ‘Makhan Singh V. Sukhdev Singh’ filed under Section 138 of the Negotiable Instruments Act, 1881, Police Station Bilga, Phillaur, is set aside subject to him depositing the costs of Rs.15,000/- with the District Legal Services Authority, Jalandhar. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Disposed of.

21.08.2023

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

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