

CRM-M-41825-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-41825-2023

Date of decision: 24.08.2023

SUMAN JINDAL AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Swarn Tiwana, Advocate,
for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

1. Challenge in the present petition is to the order dated 29.07.2023 (Annexure P-5) passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby the petitioners were declared proclaimed person in complaint case bearing No.COMA/716/2014, under Section 138 N.I.Act.

2. Learned counsel for the petitioners contends that after having been granted the concession of bail, the petitioners had been regularly appearing before the trial Court in the above-noted complaint; that on 03.03.2023, the petitioners absented themselves from the court proceedings, following which their bail bonds were cancelled and warrants of arrest had been issued against them; that by way of CRM-M-20882 of 2023, the petitioners approached this Court challenging the order dated 03.03.2023, and that the said petition had been disposed of, vide order dated 27.04.2023 passed by a Coordinate Bench, with a direction to the petitioners to appear before the trial Court within one week and move an application for bail; that owing to the issuance of warrants of arrest against

CRM-M-41825-2023

the petitioners in other complaints under Section 138 N.I.Act, they could not comply with the aforesaid order dated 27.04.2023.

3. Learned counsel for the petitioners further submits that vide CRM-20192-2023, the petitioners prayed for extension of time for a period of 10 days beyond the time granted by the Coordinate Bench, vide order dated 27.04.2023, but the same had been dismissed. It is further submitted that the petitioners could not comply with the order dated 27.04.2023 passed by the Coordinate Bench for the reason that warrants of arrest had been issued against them in some other complaints under Section 138 N.I.Act and there was no *mala fide* intention on their part to comply with the aforesaid order. It is further submitted that vide order dated 25.07.2023 passed by the Coordinate Bench, warrants of arrest issued against the petitioners in other complaints under Section 138 N.I.Act, were quashed and they had been directed to join proceedings before the court below, subject to costs of Rs.5,000/- in each case, payable to the complainant therein. It is further submitted that the petitioners are now ready to surrender before the trial Court and to face trial.

4. Notice of motion to respondent No.1-State only, at this stage.

5. On the asking of this Court, Mr. C.L.Pawar, Addl. A. G. Punjab, accepts notice on behalf of respondent No.1-State, and submits that the petitioners had rightly been declared proclaimed person.

6. I have heard the learned counsel for the parties.

7. In the present case, after having been granted the concession of bail, the petitioners had been regularly appearing before the trial Court.

However on 03.03.2023, they absented themselves from the court

CRM-M-41825-2023

proceedings, following which their bail bonds were cancelled and warrants of arrest had been issued against them. By way of CRM-M-20882 of 2023, the petitioners approached this Court challenging the order dated 03.03.2023 and the said petition had been disposed of, vide order dated 27.04.2023 passed by a Coordinate Bench, with a direction to them to appear before the trial Court within one week and move an application for bail. As stated above, the petitioners could not comply with the aforesaid directions due to the issuance of warrants of arrest against them in other other complaints under Section 138 N.I.Act. A perusal of the order dated 25.07.2023 (Annexure P-4) would show that warrants of arrest issued against the petitioners in other complaints under Section 138 N.I.Act, had been quashed. As stated above, the petitioners are now ready to surrender before the trial Court.

8. 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 as 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.

9. In the present case, the petitioners are now not required for custodial interrogation and rather, they are only to face the trial. Therefore, no useful purpose would be served by sending them to custody.

10. Keeping in view the above facts, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioners to surrender before the trial Court/Duty

CRM-M-41825-2023

Magistrate, within 15 days from today, subject to them depositing the costs of Rs.10,000/- with the District Legal Services Authority, Ludhiana. On their doing so, the petitioners shall be released on bail, subject to them furnishing the bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

24.08.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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