

CRM-M-43335-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-43335-2023

Date of decision: 31.08.2023

HARISH GUPTA

...Petitioner

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present:- Mr. Suresh Pal, Advcoate,  
for the petitioner.

**HARNARESH SINGH GILL, J. (ORAL)**

1. Challenge in the present petition is to the order dated 16.08.2023 (Annexure P-3) passed by learned Addl. Sessions Judge, Panchkula in criminal appeal bearing No.CRA-236-2018 dated 29.08.2018 titled as 'Harish Gupta Vs. State of Haryana etc.', vide which bail of the petitioner has been cancelled and warrant of arrest had been issued against him.

2. Learned counsel for the petitioner contends that vide judgment of conviction dated 30.07.2018 and order of sentence dated 31.07.2018 passed by learned Judicial Magistrate Ist Class, Panchkula, in a complaint under Section 138 N.IAct, the petitioner had been sentenced to undergo simple imprisonment for a period of one year and to pay compensation of Rs.10 lakh to respondent No.2-complainant; that being dissatisfied with his conviction, the petitioner preferred the above-mentioned appeal before learned Addl. Sessions Judge, Panchkula; that the petitioner had been

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regularly appearing before the Appellate Court, and that on 16.08.2023, the petitioner could not appear before the Appellate Court, following which his bail was cancelled and warrants of arrest had been issued against him. It is further submitted that absence of the petitioner was not intentional, rather for the reason that he had received multiple injuries in a road side accident. It is further submitted that the petitioner is ready to surrender before the Appellate Court.

3. Notice of motion.

4. On the asking of this Court, Mr. Rupinder Singh Jhand, Addl. A. G. Haryana, accepts notice on behalf of respondent No.1-State.

5. At this stage, Mr. Rohit Kumar, Advocate, puts in appearance on behalf of respondent No.2.

6. Learned State counsel and learned counsel for respondent No.2, while opposing the present petition, submit that earlier on 15.03.2023, due to non-appearance before the Appellate Court, bail of the petitioner was cancelled and warrant of arrest had been issued against him; that the petitioner approached this Court by way of CRM-M-21464-2023, and that vide order dated 28.04.2023 passed by a Coordinate Bench, the said petition was disposed of with a direction to the petitioner to surrender before the concerned Court within 10 days and on doing so, he was ordered to be released on bail and further, the concerned Court had been directed to decide the appeal within two months. It is further submitted that on 11.07.2023 and 15.07.2023, the petitioner failed to appear before the Appellate Court and applications seeking exemption from his personal appearance were allowed, and that on 25.07.2023, the petitioner also could

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not appear before the concerned Court and moved an application seeking exemption from personal appearance. It is further submitted that impugned order has rightly been passed by the Appellate Court.

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

8. No doubt, the petitioner is playing hide and seek quite often with the concerned Court, but the fact remains that appeal before the concerned Court is at the stage of arguments on merits.

9. 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. In the present case, the petitioner is ready to surrender before the Appellate Court. The petitioner is not required for any investigation purposes rather he is only to appear before the Appellate Court.

10. Keeping in view the above facts, this Court finds that but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioner to surrender before the Appellate Court, either on 13.09.2023 or 27.09.2023, subject to him depositing the costs of Rs.20,000/- with the concerned District Legal Services Authority. On doing so, the petitioner shall be released on bail, subject to him furnishing bail/surety bonds to the satisfaction of the Appellate Court/Duty Magistrate.

11. It is made clear that in case, the petitioner absents himself from the Appellate Court intentionally and moves application seeking exemption

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from personal appearance without any cogent and convincing reason, the Appellate Court would be at liberty to dismiss such an application and cancel his bail.

31.08.2023  
parveen kumar

(HARNARESH SINGH GILL)  
JUDGE

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