

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

216

CRM-M-50005-2022

Date of Decision: 04.01.2023

Krishan Kumar (Prop) M/s Krishan Beej Bhandaar Petitioner

Versus

State of Haryana and another Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. DPS Joura, Advocate for the petitioner.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

Mr. Jainainder Saini, Advocate for respondent No. 2.

ASHOK KUMAR VERMA, J. (ORAL)

Service complete.

Vakalatnama filed on behalf of respondent No. 2 is taken on record.

This petition has been filed under Section 439 Cr.P.C. read with Section 482 Cr.P.C. for grant of regular bail to the petitioner in Criminal Appeal No. 523 of 2016 in Criminal Complaint No. 1072-II dated 17.04.2015 under Section 138 of the Negotiable Instruments Act, 1881 (for short-'the Act'), titled as 'Krishan Kumar (Prop) M/s Krishan Beej Bhandaar Vs. Willwood Crop Science Private Limited etc.', pending before the Appellate Court, Hisar.

Learned counsel for the petitioner, *inter alia*, contends that vide judgment dated 01.09.2016 the petitioner was convicted in the complaint bearing Criminal Complaint No. 1072-II dated 17.04.2015 (Annexure P-1) filed under Section 138 of the Act. Against the said judgment of conviction the petitioner had preferred an appeal bearing

Criminal Appeal No. 523 of 2016 and the sentence of the petitioner was suspended by the Appellate Court. On 26.05.2022, an application was moved by counsel for the petitioner seeking exemption from personal appearance in the said appeal and the same was dismissed vide order dated 26.05.2022 (Annexure P-2). Bail of the petitioner was ordered to be cancelled and bonds were also forfeited to the State. The petitioner was ordered to be summoned for 19.07.2022, through warrants of arrest. Thereafter, the petitioner had filed an application for grant of bail which was also dismissed by the Appellate Court vide order dated 10.10.2022 (Annexure P-3). Resultantly, the petitioner is behind the bars since 06.10.2022. Learned Counsel for the petitioner submits that the petitioner undertakes to appear before the trial Court on each and every date without seeking any exemption from personal appearance.

On the other hand, learned counsel for the State assisted by learned counsel for respondent No. 2-complainant vehemently opposed the prayer for grant of bail to the petitioner.

I have heard learned counsel for the parties and gone through the record.

Admittedly, the petitioner was convicted in a complaint bearing Criminal Complaint No. 1072-II dated 17.04.2015 (Annexure P-1) filed under Section 138 of the Act, vide judgment dated 01.09.2016 and against the said judgment of conviction he had preferred an appeal bearing Criminal Appeal No. 523 of 2016. The sentence of the petitioner was suspended by the Appellate Court. On 26.05.2022, the petitioner through his counsel moved an application seeking exemption

from personal appearance which was dismissed vide order dated 26.05.2022 (Annexure P-2) and bail of the petitioner was ordered to be cancelled and bonds were also forfeited to the State. The petitioner was ordered to be summoned for 19.07.2022, through warrants of arrest. Thereafter, he filed an application for grant of bail which was also dismissed by the Appellate Court vide order dated 10.10.2022 (Annexure P-3).

Perusal of order dated 10.10.2022 (Annexure P-3) would show that after the cancellation of bail of the petitioner vide order dated 26.05.2022, he did not appear before the Appellate Court, for subsequent three dates i.e. 19.07.2022, 16.09.2022 and 03.10.2022. Ultimately, he was arrested by the police on 06.10.2022. In the bail application, the petitioner had averred that he could not appear on 26.05.2022 due to misunderstanding of the date. However, in the application seeking exemption from personal appearance he had mentioned that '*he is suffering from severe illness*' due to which he is unable to appear before the Court. Therefore, the Appellate Court has rightly dismissed his application for grant of bail by holding that he may misuse the concession of bail again.

In view of the discussion made above, the instant petition, being meritless, is dismissed.

January 04, 2023
rishu

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No