

**CRM-M-47407-2023**

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRM-M-47407-2023**

**Date of decision: 21.09.2023**

**PARDEEP KUMAR BUBNA AND ANR**

...Petitioners

Versus

**STATE OF PUNJAB AND ANOTHER**

.....Respondents

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

Present:- Mr. Ajay Sharma, Advocate,  
for the petitioners.

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

1. Challenge in the present petition is to the order dated 26.07.2023 (Anneuxre P-6) passed by learned Judicial Magistrate Ist Class, Amritsar, in complaint No.NACT/2541 dated 16.07.2021, titled as 'M/s J.B.Finance Vs. Pardeep Kumar Bubna and another, filed under Section 138 N.I. Act, vide which bail of the petitioners has been cancelled and warrants of arrest have been issued against them.

2. Learned counsel for the petitioners submits that the petitioners were summoned in the above-noted complaint filed by respondent No.2; that the petitioners had been regularly appearing before the trial Court; that vide order dated 27.02.2023 (Annexure P-2), the parties were directed to appear before the District Legal Services Authority, for mediation proceedings and that in pursuance of the aforesaid order dated 27.02.2023, the petitioners appeared in the Mediation Centre whereas respondent No.2-

Gursahib Singh had not turned up there. It is further submitted that on

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26.07.2023 (Annexure P-6), the petitioners could not appear before trial Court and moved an application seeking exemption from their personal appearance on the ground that petitioner No.1 was not feeling well and petitioner No.2, who is wife of petitioner No.1, was to take care of him, and that however, vide impugned order dated 26.07.2023, the said application was dismissed and bail of the petitioners had been cancelled. It is further submitted that absence of petitioners before the trial Court was not intentional but for the reasons explained above. It is further submitted that the petitioners have not been declared proclaimed offenders yet.

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

4. On the asking of this Court, Mr. C.L.Pawar, Addl. A. G. Punjab, accepts notice on behalf of respondent No.1-State.

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

6. It is a case wherein the petitioners had been regularly appearing before the Court. It is their specific plea that owing to the fact that petitioner No.1 was not feeling well and petitioner No.2 was to take care of him, they could not appear before the trial Court on 26.07.2023. Their non-appearance on the said date seems to be unintentional. As stated above, the petitioners have not been declared proclaimed offenders till date.

7. 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.

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8. Though the petitioners absented themselves from the Court proceedings, yet the fact remains that they are not required for any investigation or interrogation purposes and rather, they are only to face the trial in a complaint case. Therefore, no useful purpose would be served by sending them to custody.

9. Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is allowed and the impugned order dated 26.07.2023 (Annexure P-6) is set aside.

10. The petitioners are directed to surrender before the trial Court/Duty Magistrate within 10 days from today, subject to them depositing the costs of Rs.20,000/- with the concerned District Legal Services Authority. On their doing so, the petitioners shall be released on bail, subject to them furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

**21.09.2023**

parveen kumar

**(HARNARESH SINGH GILL)  
JUDGE**

Whether reasoned/speaking?  
Whether reportable?

Yes/No  
Yes/No