

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-48304-2023 (O&M)
Date of decision: 25.09.2023

Charanjit Singh Gill ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

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

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

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for quashing the impugned order dated 20.05.2023 (Annexure P-11) passed by the learned Judicial Magistrate 1st Class, Samana, District Patiala, whereby the petitioner has been declared a proclaimed person in case titled as M/s Guru Kirpa Finance Company Vs. Charanjit Singh Gill, bearing No.NIACT-769 of 2018 dated 13.12.2018 filed by respondent No.2 under Section 138 of the Negotiable Instruments Act and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that in the said complaint case, the petitioner had been regularly appearing before the learned trial Court, but on 26.04.2022 he could not appear before the learned trial Court as he was admitted in the hospital on account of severe urinary tract infection on 23.04.2022 and was advised one week absolute bed rest (copy of the medical report dated 23.04.2022 is at Annexure P-12). On 26.04.2022, learned counsel for the petitioner appearing before the learned trial Court, also suffered a statement that he has no instructions to proceed in the present

case and withdrew his power of attorney and the learned trial Court straightway issued non-bailable warrants for 05.07.2022 and he has been declared a proclaimed person vide order dated 20.05.2023 (Annexure P-11). Thus, the non-appearance of the petitioner on 26.04.2022 is not intentional on his part and he is ready to appear before the learned trial Court

Notice of motion to respondent No.1-State only.

On the asking of this Court, Mr. C.L. Pawar, Addl. AG Punjab, accepts notice on behalf of the respondent-State.

It is a case, wherein the petitioner had been regularly appearing before the Court, but only on a solitary date i.e. 26.04.2022, he could not appear before the trial Court because of his ill health and now he is ready to appear before the learned trial Court to face the trial. The non-appearance of the petitioner appears to be not intentional.

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.

Keeping in view the above fact, the order dated 20.05.2023 (Annexure P-11) passed by the learned Judicial Magistrate 1st Class, Samana, District Patiala, whereby the petitioner has been declared a proclaimed person in case titled as M/s Guru Kirpa Finance Company Vs. Charanjit Singh Gill, bearing No.NIACT-769 of 2018 dated 13.12.2018 filed by respondent No.2

under Section 138 of the Negotiable Instruments Act, is set aside subject to him depositing the costs of Rs.20,000/- with the District Legal Services Authority, Patiala. 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.

25.09.2023
Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

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