

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

**CRM-M-47931-2023
Date of decision: 31.10.2023**

Harcharan Singh

....Petitioner.

Versus

M/s Hurgu Lal Mangal Chand and another Respondents.

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Rajat Dogra, Advocate,
 for Mr. Karanjeet Singh Brar, Advocate,
 for the petitioner.

Mr. Rakesh Sobti, Advocate,
for respondent No. 1.

Ms. Gaganpreet Kaur, DAG, Haryana.

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SANJIV BERRY, J. (ORAL)

Instant petition has been preferred under Section 482 Cr.PC for setting aside of the impugned order dated 24.05.2023 (Annexure P-3), passed by learned Additional Sessions Judge (Fast Track Special Court), Sirsa, whereby the bail of the petitioner was cancelled in an appeal, i.e. CRA-200-2022 '*Harcharan Singh vs. M/s Hargu Lal Mangal Chand*' arising out of NACT-280-2017 dated 01.09.2017.

2. Instant petition was taken up for hearing on 25.09.2023 and after hearing learned counsel for the petitioner, following order was passed: -

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“The present petition under Section 482 CrPC has been preferred seeking setting aside of the impugned order dated 24.05.2023 (Annexure P-3) passed by learned Additional Sessions Judge, (Fast Track Special Court), Sirsa whereby in the appeal CRA No.200 of 2022 titled as ‘Harchan Singh Vs. M/s Hargu Lal Mangal Chand arising out of NACT-280 of 2017 dated 01.09.2017, the application for exemption moved by the petitioner was dismissed and he was ordered to be summoned through non-bailable warrants of arrest.

2. It is, inter alia, contended by learned counsel for the petitioner that in the aforesaid appeal preferred by the petitioner against the conviction under Section 138 of the Negotiable Instruments Act, 1881, he had been granted concession of bail and had been regularly appearing in the Court. However, on 24.05.2023, the petitioner could not appear in Court due to viral fever and had intimated this fact to his counsel, who due to some personal difficulty could not appear in the Court and his Clerk had moved the application seeking exemption of the petitioner on that day. He submits that however the learned Appellate Court dismissed the application and ordered the petitioner to be summoned through nonbailable warrants. He submits that the absence of the petitioner on the date fixed was not intentional but due to suffering from fever. He submits that next date fixed in the Court is 29.09.2023 and the petitioner is ready to appear in the Court, if granted concession of bail with further undertaking that in future the petitioner will not absent himself from the proceedings.

3. Notice of motion for 17.10.2023.

4. Dasti as well.

5. On the asking of the Court Ms. Gaganpreet Kaur, DAG Haryana accepts notice on behalf of respondent No.2-State.

6. In the meanwhile the petitioner is directed to appear in the Court of learned Additional Sessions Judge/Appellate Court on 29.09.2023, the date already fixed and in that event, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the concerned Court. The petitioner

will also furnish a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency will he seek exemption from the Court in accordance with law. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C. ”

3. It is submitted by learned counsel for the petitioner that in compliance to the order dated 25.09.2023, the petitioner has already surrendered in the learned Court of Additional Sessions Judge (Fast Track Special Court), Sirsa, and furnished the requisite bail bonds. This fact is also not disputed by learned counsel appearing for respondent No. 1 as well, who has also filed his vakalatnama in Court today. The same is taken on record.

4. Learned counsel for the petitioner further contends that the petitioner had also furnished the requisite undertaking as per the order dated 25.09.2023 before the learned Additional Sessions Judge, (Fast Track Special Court), Sirsa, along with a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency will he seek exemption from the Court in accordance with law.

5. Since the petitioner has preferred the petition for quashing of the order dated 24.05.2023 (Annexure P-3), vide which his bail had been cancelled on account of his non-appearance in the concerned Court on the date fixed and as in compliance to the order dated 25.09.2023, the petitioner has already appeared before the concerned Court and furnished

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the requisite bail bonds along with the undertaking, interim bail granted vide order dated 25.09.2023 is hereby confirmed, subject to conditions as envisaged under Section 438(2) Cr.P.C. Further the petitioner is directed to join investigation as and when required in future by way of written notice for such purpose to be served by Investigating Officer of this case upon the petitioner; he will not tamper with the evidence nor will influence the witnesses and will not leave the country without prior permission of the Court.

- 6. The petition stands allowed.
- 7. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

31.10.2023
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |