

CRM-M-51112-2023
Date of Decision: 09.10.2023

Kewal Krishan Kumar

..... Petitioner

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Ms. Pallavi Babbar, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the impugned order dated 13.09.2023 passed by the Judicial Magistrate Ist Class, Sirsa, whereby the Trial Court has rejected the application of the petitioner for exemption from personal hearing and cancelled the bail bonds of the petitioner and summoned him through non-bailable warrants for 27.09.2023, in Criminal Complaint No.NACT-846-2018 dated 03.07.2018 filed under Section 138 of the Negotiable Instruments Act, along with certain other prayers.

2. It is submitted by the learned counsel for the petitioner the petitioner had been appearing before the Trial Court regularly. The petitioner was granted concession of regular bail by the Trial Court, vide order dated 07.04.2021. However, on 13.09.2023, since, the medical condition of the petitioner was not good, therefore, the petitioner through his

counsel filed an application for exemption from personal hearing of the petitioner on medical grounds but the Trial Court has dismissed the said application and non-bailable warrants have been issued against the petitioner for 27.09.2023. Learned counsel submits that the absence of the petitioner from the court proceedings was not intentional. The petitioner is not intending to avoid the process of Court. Rather, he undertakes to appear before the Trial Court regularly. Hence, the petitioner deserves to be protected against his arrest.

3. Notice of motion.

4. Mr. K.K.Chahal, Additional Advocate General, Haryana, accepts notice on behalf of the respondent State. He submits that although, the petitioner does not deserve the concession of bail because he had absconded from the process of law, however, the State has no objection if the petitioner appears before the Trial Court.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain present before the Court to receive the orders and punishments 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.

6. In view of the above, the present petition is allowed and the impugned order dated 13.09.2023 (Annexure P-1) passed by the Judicial Magistrate Ist Class, Sirsa, is quashed, subject to the petitioner appearing

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before the Trial Court on or before 14.11.2023. It is further directed that in case the petitioner so appear before the trial Court on or before 14.11.2023, then the petitioner shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

(RAJBIR SEHRAWAT)
JUDGE

09.10.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No