

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CRM-M-54554-2023

Date of Decision: 02.11.2023

Neeraj Mahajan

...Petitioner

Versus

Kuldeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Ms. Ridhi Bansal, Advocate, for the petitioner.

VIKAS SURI, J. (Oral)

1. This is a petition filed under Section 482 Cr.P.C. for quashing of order dated 14.09.2023 (Annexure P-1) passed by the Judicial Magistrate First Class, Nangal, whereby bail order of the petitioner was cancelled and bail bonds/surety bonds were ordered to be forfeited to the State, in complaint case No.NACT/153/2019 dated 22.08.2019, under Section 138 of the Negotiable Instruments Act, 1881.

2. Learned counsel for the petitioner *inter alia* contends that the above captioned complaint was listed before the trial Court on 14.09.2023 for the purpose of complainant's evidence and cross-examination of CW-1, on which date petitioner could not appear because of severe backache and he was advised complete bed rest for 20 days. It is submitted that the petitioner sent a copy of medical certificate to his counsel through WhatsApp a day prior to the date fixed before the trial Court but due to some

miscommunication, application for exemption from personal appearance on his behalf could not be filed and his bail order was cancelled. Now, non-bailable warrants have been issued against the petitioner for 10.11.2023, to secure his presence. Learned counsel submits that the absence of the petitioner before the trial Court is not intentional but due to the reasons given above and the petitioner is ready to join proceedings and abide by all terms and conditions that may be imposed by this Court.

3. Heard learned counsel for the petitioner.

4. A perusal of the record would show that the petitioner failed to appear before the Court on 14.09.2023. Resultantly, his bail order was cancelled and bail and surety bonds were ordered to be forfeited to the State while ordering to secure his presence through warrants of arrest. The reason assigned for his absence was illness. Copy of screenshot appended with the petition as Annexure P-4 shows that the petitioner had sent his medical certificate through WhatsApp to his counsel on 13.09.2023, i.e. one day prior to the date fixed before the Court but the same appears not to have been noticed or acted upon. In these circumstances, it is urged that exemption application on behalf of the petitioner could not be filed. Petitioner is ready to join the proceedings and no useful purpose would be served by sending him behind bars; rather it will be appropriate if he is allowed to face the trial.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused should 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. Hence, keeping in view the above, impugned order dated 14.09.2023 (Annexure P-1) is set aside subject to payment of ₹10,000 as compensatory costs to be paid to the complainant by way of demand draft and the petitioner is directed to surrender before the trial Court on or before 10.11.2023 i.e. the date fixed before the trial Court and apply for grant of regular bail. On filing such application, the Court concerned shall re-admit the petitioner to bail subject to his furnishing fresh bail bonds and surety to its satisfaction and proceed with the case in accordance with law.

7. Needless to observe that in case the petitioner fails to comply with the abovesaid direction, then this order shall stand recalled automatically, without any further reference to this Court.

8. This petition is being disposed of without issuing notice to respondent to avoid the proceedings being delayed any further and even otherwise, it would unnecessarily burdened the respondent with additional expenses.

9. This petition is disposed of in the aforesaid terms.

November 02, 2023
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(VIKAS SURI)
JUDGE

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