

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

103. CRM-M No.5130 of 2024 (O&M)  
Date of Decision:01.02.2024

Balwinder Singh ... Petitioner

Versus

State of Punjab and another ... Respondents

**CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

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

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**HARPREET SINGH BRAR, J. (ORAL)**

1. The petitioner has approached this Court under Section 438 Cr.P.C. seeking anticipatory bail to the petitioner in the event of his arrest in Complaint bearing COMA No.849/2020 dated 28.02.2020 filed under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to NI Act) before the learned Judicial Magistrate 1<sup>st</sup> Class, Patiala
2. Learned counsel for the petitioner *inter alia* contends that respondent No.2 has filed a complaint under the NI Act before the learned Judicial Magistrate 1<sup>st</sup> Class, Patiala against the petitioner in which he was admitted to bail. However, vide order dated 22.07.2022 passed by the learned trial Court, bail order of the petitioner was cancelled and his personal bonds were forfeited to the State. Further non-bailable warrants were issued for his arrest. On 31.01.2023, he was declared a proclaimed person. It is further contended that in fact, a compromise was effected between the petitioner and respondent No.2 vide which respondent No.2 agreed to withdraw the complaint supra and

therefore, he could not appear before the learned trial Court. The absence of the petitioner before the learned trial Court was neither willful nor deliberate and he undertakes to appear on every date of hearing.

3. Notice of motion.

4. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice for respondent No.1-State and submits that since the petitioner was concealing himself from the process of law, the learned trial Court has rightly issued non-bailable warrants to secure his presence.

5. I have heard learned counsel for the parties and with consent of parties, the case is taken up for final disposal.

6. Admittedly, the petitioner is involved in a bailable offence in a complaint case, which is punishable upto two years. Putting the petitioner under detention during the course of trial would not be in proportion to the punishment provided under the NI Act. Furthermore, Article 21 of the Indian Constitution mandates that no person shall be deprived of his personal liberty except through procedure established by law. The Hon'ble Supreme Court has authoritatively elaborated the principle of law that issuance of non-bailable warrants of arrest directly would amount to curtailment of liberty of a person, which can only be done strictly in accordance with the procedure prescribed under the law. Moreover, the petitioner is ready to join the proceedings and further undertakes to attend court proceedings on each and every date.

7. Keeping in view the aforesaid facts and circumstances and the fact that warrants of arrest have already been issued by the learned trial Court vide order dated 22.07.2022, the petitioner is directed to surrender before the learned trial Court within a period of two weeks from today and apply for grant of regular bail. On his doing so, the Court concerned shall admit him to bail subject

to furnishing bail bonds and surety bonds to its satisfaction along with costs of ₹10,000/- for wasting precious time of the Court to be deposited with the District Legal Services Authority, Patiala.

8.           Needless to say, in case the petitioner fails to comply with the abovesaid direction, the order passed by this Court today shall stand automatically vacated.
9.           The instant petition is allowed in above terms..

(HARPREET SINGH BRAR)  
JUDGE

February 01, 2024  
Pankaj\*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |