

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

101. CRM-M No.5308 of 2024 (O&M)
Date of Decision:01.02.2024

Ram Singh ... Petitioner

Versus

Babita Yadav ... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mayank Yadav, Advocate
for the petitioner.

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, as warrants of arrest have been issued against him vide order dated 21.11.2023 passed by the learned Sessions Judge, Narnaul.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner was convicted and sentenced under Section 138 of the Negotiable Instruments Act, 1881 vide judgment of conviction and order of sentence dated 01.08.2023 and 03.08.2023 respectively passed by the learned Judicial Magistrate 1st Class, Narnaul to undergo simple imprisonment for one year and pay compensation of Rs.1,50,000/- to the respondent. He preferred an appeal against the said judgment before the learned Sessions Judge, Narnaul. On 21.11.2023, he was indisposed and therefore, filed an application seeking exemption from personal appearance but the said application was dismissed by the learned Sessions Judge, Narnaul vide order dated 21.11.2023. His bail was

cancelled and bonds were forfeited to the State. Further, his presence was ordered to be secured through non-bailable warrants. It is further contended that the petitioner was regularly putting in appearance before the learned Sessions Court and he could not appear on one date, owing to his ill-health. The absence of the petitioner was neither intentional nor willful and he undertakes to appear on every date of hearing.

3. I have heard learned counsel for the petitioner and perused the paper book.

4. Admittedly, the petitioner had filed an application seeking exemption from personal appearance on the ground of ill-health, which was dismissed vide order dated 21.11.2023 passed by the learned Sessions Judge. Mere absence on one date cannot be a sole ground to cancel the bail of the petitioner, in view of the ratio of law laid down by this Court in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406; 2023 (2) Law Herald 1506***. 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.

5. Keeping in view the aforesaid facts and circumstances and the fact that warrants of arrest have already been issued by the learned Sessions Judge vide order dated 21.11.2023, the petitioner is directed to surrender before the learned Sessions Court within a period of two weeks from today and apply for

grant of 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, Narnaul.

6. 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.

7. The instant petition is allowed in above terms, without issuing notice to the respondent in order to save time of the Court and to avoid litigation expenses to be incurred on the part of the respondent.

(HARPREET SINGH BRAR)
JUDGE

February 01, 2024
Pankaj*

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