IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

SR. No.134

CRM-M-11352-2024
Date of decision:04.03.2024

Rakesh

…Petitioner

Versus

State of Haryana and another

…Respondent(s)

CORAM: HON'BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Sourabh Sheoran, Advocate for the petitioner.

N.S. SHEKHAWAT, J.

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the impugned order dated 16.01.2024 (Annexure P-1) passed by the Sessions Judge, Narnaul, whereby the bail of the petitioner was cancelled and his bail bonds and surety bonds were ordered to be forfeited to the State.

2. Learned counsel for the petitioner has submitted that the petitioner was convicted under Section 138 of the Negotiable Instruments Act, 1881 and was sentenced by the JMIC Narnaul. Feeling aggrieved, the petitioner had filed an appeal before the Court of Sessions Judge, Narnaul and vide order dated 25.10.2023 (Annexure P-2), the sentence imposed on the petitioner was ordered to be suspended. He has further submitted that the appeal was listed for hearing before the appellate court on 16.01.2024. However, the petitioner was not keeping good health and on 15.01.2024 he got himself checked at Primary Health Centre, Sihma, Narnaul. His health

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further deteriorated and he again got himself examined medically at Civil Hospital, Narnaul on 16.01.2024. Learned counsel has placed reliance on the OPD Cards dated 15.01.2024 and 16.01.2024, Annexures P-4 and P-5, respectively in this regard. Learned counsel next submits that due to his ill health, the petitioner could not attend the court proceedings on 16.01.2024 and his bail was ordered to be cancelled. He has next submitted that the petitioner is in custody since 07.02.2024. He has also submitted that the petitioner is ready to appear before the appellate court on each and every date of hearing fixed before the appellate court.

3. At this stage, there is no need to issue notice to respondents in the present case as the rights of the respondents would not be prejudiced in any manner. However, in case, respondent No.2/complainant still feels that there was any concealment in the present petition, he is at liberty to move an appropriate application before this Court in this regard. Thus, just to save the time and expenses of respondent No.2, notice has not been issued to respondent No.2 in this regard in the present case.

4. I have heard the learned counsel for the petitioner and perused the case file minutely.

5. The appeal preferred by the petitioner/appellant was listed before the Court of Additional Sessions Judge on 16.01.2024 and an application for exemption of personal appearance of the petitioner/appellant was moved before the appellate court on the ground that he was not keeping good health and was under treatment. Still the bail of the petitioner was ordered to be cancelled and his bail bonds/surety bonds were forfeited to the State. In fact, the appellate court should have granted one more opportunity

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to the petitioner/appellant to comply with the earlier order and such a harsh order should have been avoided by the appellate court.

6. In view of the above, the present petition is allowed and the petitioner/appellant is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned learned trial Court/Chief Judicial Magistrate/Duty Magistrate. The petitioner shall file an affidavit before the appellate court that he shall appear on each and every date of hearing and shall not remain absent without prior permission of the Court.

(N.S. SHEKHAWAT)
JUDGE

04.03.2024
mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO

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