

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11770-2024
Date of Decision:07.03.2024

M/s C.K & Co.through its prop. ...Petitioner
Manikam Nithyanandam

vs.

M/s Innovatice Soch, through its prop. ...Respondent
Shri Vasu Gupta

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Shantanu Bansal, Advocate
for the petitioner.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr. P.C with a prayer to quash the impugned order dated 22.08.2023 (Annexure P-8) passed by the Court of Sessions Judge, Panipat in a case bearing No.CRA-504-2019, whereby the bail of the petitioner was cancelled and his bail bonds and surety bonds were ordered to be forfeited to the State and arrest warrants were issued against him.
2. Learned counsel for the petitioner contends that vide the judgment and order dated 25.11.2019 and 26.11.2019 (Annexure P-2 and Annexure P-3) respectively, the petitioner was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act and was sentenced to undergo RI for a period of one year and six months and was also ordered to pay the compensation to the respondent. The petitioner preferred an appeal before the Court of Sessions Judge, Panipat, which is pending since 2019. Learned counsel further contends that the petitioner was regularly

appearing before the Appellate Court and since he belongs to Chennai, he could not appear on certain dates and applications for exemption from personal appearance were moved by his counsel before the Appellate Court. As, he could not appear before the Appellate Court on 13.02.2023, his bail was cancelled. The petitioner assailed the said order dated 13.02.2023 passed by the Appellate Court and vide order dated 20.04.2023, the said order was set aside and the petitioner was ordered to be released on bail to the satisfaction of the Appellate Court. However, an undertaking was given by the petitioner that the petitioner would not seek any exemption from personal appearance till the disposal of the appeal. Consequently, vide order dated 20.04.2023 (Annexure P-6), this Court had observed that in case of any violation of the undertaking given by the petitioner to this Court through his counsel, the concerned Court shall be at liberty to proceed, in accordance with law. Thereafter, the petitioner appeared before the Appellate Court on 19.05.2023 and 29.05.2023. Learned counsel further contends that on 22.08.2023, the petitioner could not appear before the Appellate Court, as he could not arrange the tickets for travelling to Delhi. Consequently, his counsel moved an application for exemption from personal appearance of the petitioner. However, the Appellate Court had declined the said prayer.

3. Learned counsel for the petitioner further contends that the petitioner is ready to appear before the Appellate Court and shall not apply for exemption from personal appearance in future.

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

5. This Court feels it appropriate that notice to the

respondent may not be issued, at this stage to save the time and expenses of the respondent. Moreover, the respondent would not be prejudiced from the present order in any manner. However, in case, there is any concealment of facts in the present case, respondent would be at liberty to move an appropriate application in this regard.

6. During the course of hearing of CRM-M-19285-2023 on 20.04.2023, the petitioner had given an undertaking before this Court that the petitioner shall not seek any exemption from personal appearance till the appeal is decided and after consideration of the said prayer, this Court had granted an opportunity to the petitioner to appear before the Appellate Court and was ordered to be admitted to bail. However, at the same time it was observed that in case of any violation of undertaking given by the petitioner to this Court, Appellate Court shall be at liberty to proceed, in accordance with law. Thus, there is no illegality in the order dated 22.08.2023 passed by the Appellate Court.

7. At this stage, learned counsel appearing on behalf of the petitioner submits that the petitioner is an aged person and due to the reasons mentioned above, he could not appear before the Appellate Court on 22.08.2023. Apart from that, he had duly informed his counsel, who had moved an application for exemption from personal appearance and the petitioner may be granted one last and final opportunity to appear before the Appellate Court and the petitioner shall not seek any exemption from personal appearance under any circumstances, till the appeal is decided.

8. Consequently, taking a lenient view of the matter, the present petition is allowed subject to payment of cost of Rs.25,000/-, which shall be

deposited with *Punjab and Haryana High Court Bar Clerks Association* within a period of two weeks from today. The petitioner is permitted to appear before the Appellate Court on or before the next date of hearing and on his appearance, he shall be admitted to bail subject to furnishing bail bonds and surety to the satisfaction of the concerned Court. The petitioner shall also file an affidavit before the Appellate Court that he shall appear on each and every date of hearing, before the Court.

9. Since the appeal is pending before the Appellate Court since 2019, the Appellate Court is directed to decide the appeal expeditiously, preferably within a period of three months from the next date of hearing.

07.03.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No