

2024:PHHC:062793



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-22707-2024

DATE OF DECISION: 07.05.2024

MEENA BAI

...PETITIONER

Versus

STATE OF HARYANA AND ANOTHER ... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Jammu, Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

This petition under Section 438 Cr.P.C. has been filed for grant of anticipatory bail to the petitioner in Criminal complaint case bearing No NACT-1502 OF 2021 U/s 138 Negotiable Instruments Act of dated 27.10.2021 titled as "Manish Kumar VS Meena Bai" as the petitioner could not appear on one date and the bail bonds as well as surety bonds were cancelled and forfeited vide order dated 09.03.2023 by the JMIC Sirsa and non-bail able warrants were issued subsequently.

Learned counsel for the petitioner contends that it was on the second occasion that he sought exemption from personal appearance before the Trial Court. The said exemption was declined by Judicial Magistrate First Class, Sirsa considering that the matter pertains to the year 2021 with the subsequent observation that the accused is intentionally avoiding his



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presence before the Court and is intending to delay the proceedings. Consequently, bail of the petitioner was cancelled and personal/surety bonds were forfeited to the State.

It is contention of the learned Counsel for the petitioner that the petitioner did not put in appearance on account of that the petitioner moved application for exemption from personal exemption but the same was rejected without considering the aforesaid facts and only on two occasions since the initiation of the complaint against her, she has sought exemption for the reasons which were beyond her control. He further submits that such act on part of the petitioner was neither intentional nor deliberate. She did not had any intention to avoid attendance in the Court proceedings otherwise she was appearing regularly on each and every date before the Court. He undertakes that the petitioner will surrender before the trial Court and shall join the trial proceedings without any delay or default in future.

Notice of motion.

Learned State Counsel appearing on advance notice accepts the same on behalf of respondent/State and seeks time to have instructions.

Learned State Counsel submits that it is a private complaint between two individuals i.e. petitioner and respondent No.2-complainant who has instituted complaint under Section 138 of NI Act on account of dishonouring of the cheque for an amount of Rs. 1.40 lakhs.



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and also in appreciation of the fact that it will only speed up the proceedings before the Trial Court which is one of the essence as enshrined under Article 21 of the Constitution of India, the petitioner is directed to surrender before the trial Court within a period of one week week from today

Considering the submissions made by learned counsel and and the observations made by JMIC, Sirsa (Annexure P-3) but in the larger interest of justice wherein presence of the petitioners is only facilitate the furtherance of the trial proceedings, this Court is of the view that in case the petitioner surrenders before the Trial Court within ten days from today and apply for regular bail, the same shall be considered on the same date and decided in accordance with law.

However, it is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.

There is no dispute to the fact that on account of conduct of the petitioner, inordinate delay has taken place in the case which has been subsequently stated to be not proceeded further on account of absence of the petitioner on multiple occasions. The petitioner shall compensate the complainant for which learned counsel for the petitioner volunteers to pay Rs. 5000/- to the complainant-respondent No.-2 Manish Kumar before the Trial Court on the date petitioner surrenders before the Trial Court and only in that eventuality, application of the



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petitioner for seeking bail be considered and decided on the same day in accordance with law.

The instant petition is disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

07.05.2024
anuradha

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>