

2024:PHHC:077270



127 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27343-2024 (O&M)
Date of Decision: 29.05.2024

Dilbag Rai BaggaPetitioner

Versus

Gurbax SinghRespondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sumit Dua, Advocate for the petitioner.

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing the order dated 16.05.2024 (Annexure P-6) passed by learned Additional Sessions Judge, Jalandhar, whereby bail of the petitioner was cancelled, besides, forfeiture of bail bonds as well as surety bonds to the State, followed by issuance of non-bailable warrants against him.

2. Having been convicted and sentenced under Section 138 of the Negotiable Instruments Act, vide judgment of conviction and order of sentence dated 24.03.2023 passed by learned Judicial Magistrate Ist Class, Jalandhar, the petitioner filed first appeal, wherein vide order dated 21.04.2023, learned Additional District & Sessions Judge, Jalandhar admitted the appeal and suspended the sentence of the petitioner while directing the petitioner to deposit 20% of the compensation amount within 60 days. Aggrieved against the said order, the petitioner approached this

Court by way of filing CRM-M-5604-2024, which came to be disposed of

with some modification that petitioner shall deposit 10% of the compensation amount instead of 20% and accordingly, he deposited the aforesaid amount and was released on bail. Subsequently, the matter was taken up in the Lok Adalat for settlement but matter could not be finalised and file was returned to the lower appellate Court. Thereafter, the petitioner was regularly appearing before the appellate Court, however, on 16.05.2024, the petitioner failed to appear before the appellate Court, resulting into cancellation of his bail and forfeiture of bail bonds as well as surety bonds to the State followed by issuance of non-bailable warrants against him vide order dated 16.05.2024. The aforesaid order has been impugned by way of present petition.

3. Learned counsel for the petitioner submits that the petitioner could not appear before the appellate Court on 16.05.2024, due to the reason that he being 74 years of age is suffering from various old age diseases and on the said date he was not well due to his illness.

4. At this stage, notice is not required to be issued to the respondent-complainant as it may cause unnecessary financial burden upon him, beside it, the matter primarily relates between the petitioner and the State and thus, the learned State counsel is requested to assist this Court in the matter.

5. Mr. Athar Ahmed, DAG, Punjab vehemently opposes the prayer made on behalf of the petitioner while submitting that the non-appearance of the petitioner before the Appellate Court was just to cause delay.

6. I have heard learned counsel for the parties and gone through the paper book.

7. The non-appearance of the petitioner before the Trial Court on 16.05.2024 appears to be unintentional and for bonafide reason i.e. due to

the reason that he being 74 years of age is suffering from various old age diseases and on the said date he was not well due to his illness.

8. Moreover, learned counsel for the petitioner, on instructions, submits that in order to show his *bona fide*, the petitioner out of his own volition is ready to compensate the respondent-complainant by way of depositing a sum of Rs.5000/- with the Appellate Court without prejudice to his rights.

9. In view of the above, the present petition is allowed. Order dated 16.05.2024 is set aside. Petitioner is directed to appear before the Appellate Court within a period of one week from today and furnish his fresh bail/surety bonds, which shall be accepted, subject to its satisfaction. The aforesaid amount of Rs.5,000/-, which is non-refundable as volunteered by the petitioner, shall be deposited by him at the time of submissions of his bail bonds before the Appellate Court, which shall be released to the respondent-complainant upon due verification.

10. All the pending applications, if any, stand disposed of.

29.05.2024
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: yes/no
Whether reportable? yes/no