



CRM-M-35590-2024

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

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Date of Decision : July 29, 2024

PANCHAPAKESAN KAILASAM

-PETITIONER

V/S

STATE OF HARYANA

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Paras Chugh, Advocate
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

KULDEEP TIWARI, J. (ORAL)

1. What has caused grievance to the petitioner and propelled him to institute the instant petition for grant of anticipatory bail, is the order dated 04.06.2024, whereby, his bail has been cancelled and his bail bonds and surety bonds have been forfeited. In addition, warrant of arrest have also been issued against him.

2. As a matter of fact, the learned trial Court concerned has, through drawing the verdict of conviction on 04.11.2022, convicted the petitioner for commission of offence punishable under Section 138 of the Negotiable Instruments Act (hereinafter referred to as the 'N.I. Act'). This verdict of conviction and consequent thereto order of sentence caused pain to the petitioner and triggered him to institute a statutory appeal thereagainst before the learned appellate court concerned, which is pending

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consideration. However, during pendency of the statutory appeal, the learned appellate court concerned has, vide order dated 02.12.2022, suspended the sentence of the petitioner, subject to certain conditions, which have been complied with by the petitioner.

3. On 04.06.2024, i.e. the date of hearing before the learned appellate court concerned, the petitioner moved an application for exemption from personal appearance on account of certain professional exigencies, however, the said application did not find favour with the learned appellate court concerned. Consequently, the learned appellate court concerned, through drawing the order dated 04.06.2024, dismissed petitioner's exemption application, on the ground that, the petitioner is intentionally avoiding his appearance and has been continuously filing such exemption applications. Not only this, the bail of the petitioner has also been dismissed and warrant of arrest has been issued against him.

4. The learned counsel for the petitioner submits that the absence of the petitioner before the learned appellate Court concerned was neither intentional nor wilful, rather was *bona fide*. The petitioner does not have any intention to escape from the clutches of law, rather he is ready and willing to join the proceedings before the learned appellate court concerned, in case he is granted adequate protection. He also assures this Court that henceforth the petitioner will not, except for strong and compelling reasons, make any application for exemption from personal appearance.

5. Notice of motion.

6. Mr. Rajesh Gaur, Addl. A.G., Haryana, waives service of notice on behalf of the respondent-State.

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7. Considering the submissions made hereinabove and the innocuous prayer of the learned counsel for the petitioner, though this Court does not find any illegality or perversity in the order dated 04.06.2024, however, taking a lenient view, this Court, at this stage, deems it appropriate to grant an opportunity to the petitioner to appear before the learned appellate Court concerned.

8. Consequently, the instant petition is disposed of with a direction to the petitioner to appear before the learned appellate Court concerned on 23.08.2024, i.e. the date already fixed before it. In case, the petitioner appears within the above stipulated period and files fresh bail/surety bonds to the satisfaction of the learned appellate court concerned, the same shall be accepted and he shall be enlarged on regular bail. The arrest of the petitioner shall remain stayed only till 23.08.2024. However, in case, the petitioner fails to appear before the learned appellate Court concerned within the above stipulated period, the protection granted hereinabove *qua* his arrest shall stand *ipso facto* vacated, without any further reference to this Court.

9. Disposed of accordingly.

July 29, 2024
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No