

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

**Neutral Citation No. 2024:PHHC:021063
CRM-M-39961-2023
Date of Decision: February 14, 2024**

Pradeep Kumar

...Petitioner

Versus

Surender Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sudhir Rana, Advocate for the petitioner.

None for the respondents.

DEEPAK GUPTA, J.(Oral)

Notice issued to the respondents has been received back duly served, as reported by the Registry, but nobody has tuned up.

2. Petitioner has challenged the condition of the order dated 02.06.2023 (Annexure P-4), whereby he has been asked to pay 20% of the cheque amount as one of the conditions of the bail.

3. On 09.05.2023 (Annexure P-3) in CRM-M-23388-2023, following order was passed by this Court:-

“Prayer in this petition is to quash order dated 09.12.2022 (Annexure P.3) whereby warrants of arrest were directed to be issued against the petitioner; and order dated 10.03.2023 (Annexure P.4) whereby proclamation under Section 82 Cr.P.C was directed to be issued, in a complaint case bearing No.NACT-464 of 2022 titled “Surender Singh Vs. Pradeep Kumar”.

The only contention made by learned counsel for the petitioner is that the petitioner is ready to surrender before the trial Court and that he be granted interim protection.

It is noticed that after being summoned to face trial under Section 138 of the Negotiable Instruments Act vide order dated 13.06.2022 (Annexure P.2), notice upon the petitioner was served for 09.12.2022 but he failed to appear due to which warrants of

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arrest and then proclamation was issued.

This petition is hereby disposed of with a direction to the petitioner to surrender before the trial Court on or before 02.06.2023, the date already fixed thereat. On his such appearance, the Court shall consider his bail application. However, this order is subject to cost of ₹5,000/- to be paid by the petitioner to the complainant- respondent by way of a bank draft. In case petitioner does not surrender before the trial Court on or before 02.06.2023 and does not pay the cost as per this order, this petition shall be deemed to have been dismissed. It is also directed that if during this period, petitioner is sought to be arrested on account of proclamation having been issued against him, then he shall be admitted to interim bail to the satisfaction of arresting Officer.

Disposed of.”

4. Pursuant to the aforesaid order, petitioner had surrendered before the Trial Court concerned. He furnished the demand draft of ₹5,000/-. In view of the direction given by this Court, the petitioner was admitted to bail. However, in the last paragraph of the order, learned Addl. Chief Judicial Magistrate, Narnaul, directed the petitioner to pay 20% of the cheque amount to the complainant on the next date of hearing, considering the fact that possibility of his absconding again could not be ruled out.

5. It is clear from the impugned order that direction to pay 20% of the cheque amount to the complainant on the part of the petitioner has not been given under Section 143-A of the Negotiable Instruments Act, 1881 and rather this direction has been issued as a condition of bail.

6. The aforesaid direction is absolutely unjustified. No such condition was imposed by this Court while granting bail to the petitioner

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in its order dated 09.05.2023 (Annexure P-3). As such, the order dated 02.06.2023 (Annexure P-4) passed by learned Addl. Chief Judicial Magistrate, Narnaul, is hereby modified to the extent that the Court will not insist the petitioner to pay 20% of the cheque amount as a condition of the bail.

Disposed of.

February 14, 2024
sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No