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

CRM-M-43007-2024(O&M)

Date of Decision: September 02, 2024

Rajinder Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Rashmeet Singh, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)**CRM-35048-2024**

Application is allowed, as prayed for.

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Prayer in the present petition is for quashing of impugned order, dated 24.07.2024, passed by ASJ/Judge, Special Court Fatehgarh Sahib, vide which warrant of arrest of the petitioner has been issued for 05.08.2024, in appeal bearing CRA No.14-2020 by forfeiting surety bond and bail bonds of the petitioner in complaint case filed under Section 138 of Negotiable Instruments Act, 1881 (for brevity, 'the NI Act'), in complaint Case No.NACT/119/2017. It is further prayed to stay the proceedings of impugned order, dated 24.07.2024 and arrest of the petitioner and permit the petitioner to surrender and grant him bail to defend his case.

Learned counsel for the petitioner has submitted that the

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petitioner has been convicted by the Court of Judicial Magistrate Ist Class, Fatehgarh Sahib, vide judgment, dated 16.12.2019 in the complaint filed under Section 138 of the NI Act. The petitioner filed appeal against the said order before the Court of Additional Sessions Judge, Special Court, Fatehgarh Sahib and the petitioner was released on bail on his furnishing bail/surety bonds, vide order dated 13.01.2020. He submits that petitioner was regularly appearing before the Court, however, on one date, i.e. on 24.07.2024, neither he appeared before the Court due to miscommunication with his counsel nor his counsel appeared and hence the learned Additional Sessions Judge, without granting any opportunity of hearing, straightway cancelled the bail and his bail bonds and surety bonds were also cancelled and forfeited to the State, vide its impugned order, dated 24.07.2024. The anticipatory bail filed by the petitioner before the Court of Additional Sessions Judge, Fatehgarh Sahib, has also been dismissed by the Court vide its order dated 21.08.2024 and hence the petitioner has approached this Court.

It has been submitted by learned counsel for the petitioner that petitioner is ready to join the proceedings and contest the case on merits. It is further submitted that absence of the petitioner was unintentional and hence order dated 24.07.2024 be set aside and petitioner be granted opportunity of being heard and contest the case on merits.

Notice of motion to official respondent only.

On asking of the Court, Mr.Tarun Aggarwal, Sr.DAG, Punjab, who is present in Court, accepts notice on behalf of the respondents/State.



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cancelled as he had failed to appear before the Court on the date fixed without any reasonable cause.

Heard.

After hearing learned counsel for the parties, the Court is of the view that although the petitioner had failed to appear before the Court on the date fixed and because of which his bail/surety bonds were cancelled and forfeited to the State, yet when he is ready to join the proceedings, no useful purpose will be served by sending the petitioner behind bars, rather his single default should be condoned. So the present petition is allowed. Order, dated 24.07.2024, is set aside subject to payment of Rs.10,000/- as costs, to be paid to the complainant by the petitioner. In case, the petitioner appears and surrenders before the Court concerned within a period of 10 days from today and deposit the costs, to be paid to the complainant, and files an application for bail, the Court concerned would admit him to bail subject to its satisfaction. He will have protection from arrest for a period of 10 days from today. The Court thereafter on appearance of the complainant, release the said amount to him forthwith. Needless to say that in case the petitioner fails to comply with the abovesaid direction, he will have no benefit of abovesaid protection granted by this Court and order under challenge dated 24.07.2024 would come in force and the present petition would be deemed to have been dismissed.

September 02, 2024

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(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No