



CRM-M-45205-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-45205-2024
Date of Decision : 12.09.2024

Sumit Kumar

.....Petitioner

Versus

Mahindra & Mahindra Finance Service Limited

.....Respondent

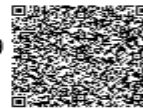
CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Tamvir Singh Grewal, Advocate
for the petitioner.

KIRTI SINGH, J.(Oral)

Prayer in this petition filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023 is for grant of anticipatory bail to the petitioner in complaint under Section 138 of the Negotiable Instruments Act, 1881 (for brevity 'NI Act') bearing No. NACT-5322 of 2018 titled as "***Mahindra & Mahindra vs. Sumit Kumar***" instituted on 16.03.2018 (Annexure P-1) as proclamation under Section 82 of the Cr.P.C. has been issued against the petitioner vide order dated 14.08.2024 passed by JMFC, Gurugram.

2. The brief facts of the case are that complainant-respondent had filed a complaint dated 16.03.2018 under Section 138 of the NI Act. The petitioner was admitted to bail and was attending the hearings regularly before learned trial Court. However, due to personal difficulties he failed to appear on 18.04.2024 and the bail of the petitioner was cancelled and bail bonds/surety bonds were forfeited to State. Subsequently, on 12.06.2024, the petitioner moved an application for



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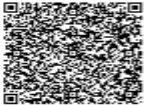
exemption of appearance on medical grounds but the same was dismissed and again non-bailable warrants were issued for 23.07.2024.

3. Learned counsel for the petitioner *inter alia* submits that the dispute pertains to a loan amount of Rs.8,94,600/-. The petitioner had paid some installments but due to personal difficulties he failed to pay the same and the above stated complaint was filed. He submits that pursuant to filing of this complaint the petitioner has paid about Rs.1,00,000/- in two installments of Rs.50,000/- each and till date a sum of Rs.2,64,200/- has been paid out of the total disputed amount. He further submits that the petitioner is willing to join the trial and he is willing to settle the dispute, therefore, he may be granted one opportunity to appear before the trial Court.

4. This Court has heard the learned counsel for the petitioner and has perused the paper-book.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

6. Accordingly, the petition is allowed. The impugned order dated 14.08.2024 (Annexure P-5) is hereby set aside, **subject to payment of Rs.10,000/- to be deposited in Poor Patient Welfare Fund, PGIMER, Chandigarh.** Petitioner is directed to surrender before the learned Trial Court within a period of 15 days and, in case he surrenders he be released on bail subject to the satisfaction of the learned Trial Court. Till then no coercive steps shall be taken against the petitioner.



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7. In case, the petitioner fails to appear before the trial Court within 15 days or fails to deposit the cost as stated above, this order would be of no avail to the petitioner.

12.09.2024
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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No