

CRM-M-46589-2024

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

CRM-M-46589-2024
Decided on: 24.09.2024

Rajesh Kumar Chaudhary

...Petitioner

Versus

State of Haryana and another

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Siddharth, Advocate
for the petitioner.

Mr. Vikrant Pamboo, Sr. DAG, Haryana.

Mr. G.C. Shahpuri, Advocate for the complainant.

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ANOOP CHITKARA, J.

Complaint Case under Section 138 of Negotiable Instruments Act 1881 (Case No. NI
Act 739 of 2019) Distt. Yamuna Nagar

1. The petitioner incarcerated in the complaint captioned above, had come up before this Court under Section 439 CrPC, 1973, seeking regular bail. Although the present petition is filed under Section 439 CrPC and it was filed after 30.06.2024 when CrPC stands repealed, as such the present petition is being treated as under Section 483 BNSS instead of 439 CrPC.

2. As per paragraph 13 of the bail petition, the accused declares that six other FIRs are pending against the petitioner but record is not available.

3. Counsel for the complainant vehemently opposes the bail and submits that he wants to file a detailed reply but considering the nature of offence, this Court found that there is no necessity for reply as all the facts are available in the petition as well as in the impugned order and even complaint has been annexed in the petition. Complainant's counsel opposes the bail by submitting that two multiple cases were filed by the petitioner against him, as such he is not entitled to bail.

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.



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5. I have heard counsel for the parties and gone through the record and its analysis would lead to the following outcome.

6. Respondent No.2 had filed a complaint under section 138 of Negotiable Instruments Act, against the petitioner for dishonour of cheque of Rs.6 lacs, due to insufficient funds. The trial Court had taken cognizance of the offence and had issued summons vide order dated 18.04.2019. On his appearance, the petitioner was admitted to bail by the trial Court on 04.08.2022 and thereafter, he did not appear on 21.11.2022 and consequently, his bail was cancelled and bail bonds were forfeited by the State. Thereafter the petitioner was declared as proclaimed person vide order dated 22.03.2023 and even the FIR under Section 174 A IPC was filed against him.

7. Counsel for the petitioner submits that petitioner was arrested on 18.03.2024 and he is in custody since then. He further submits that petitioner had filed regular bail application before the Sessions Court and the Additional Sessions Judge, Yamuna Nagar, vide order dated 27.08.2024, dismissed the bail application by giving the following reasons :-

“5. From the perusal of the Trial Court Record, it reflects that the applicant-accused was ordered to be summoned for the commission of offence punishable under Section 138 of the Negotiable Instruments Act by learned Trial Court vide order dated 18.04.2019. On his appearance, the applicant-accused was admitted to bail by the learned Trial Court vide order dated 04.08.2022. Thereafter, the applicant-accused did not appear before the Court on 21.11.2022, after which, his bail was cancelled and bonds furnished by him were forfeited to the State. The perusal of the file further spells out that the applicant-accused was declared proclaimed person vide order dated 22.03.2023 and he was produced before the Court on 18.03.2024. Furthermore, as per the reply of the learned counsel for the respondent no. 2, the applicant-accused has been declared proclaimed person in other cases. From above, it is clear that the applicant-accused is in the habit of jumping bail and thereby misusing the concession of bail granted to him. So, in given circumstances, there is every possibility that the applicant-accused, if granted the concession of bail, shall again mis-use the same.

6. Keeping in view the facts and circumstances and without commenting on the merits of the case, the present bail application is hereby dismissed. As provided under Rule 15 (iii), Chapter 10 of Punjab and Haryana High Court Rules and Orders, Volume-III and direction of Hon'ble Supreme Court in SMWP (CRIMINAL) No. 4/2021 "IN RE POLICY STRATEGY FOR GRANT OF BAIL", dated 31.01.2023, a soft copy of this order be sent by way of e-mail to the applicant-accused, who is confined in jail, through Jail Superintendent immediately. Bail application file be consigned to record room after due compliance.”

8. A perusal of the above reveals that the concerned Sessions Judge did not realize



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the petitioner’s custody and other fact that offence was bailable.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on bail in the complaint captioned above subject to furnishing bonds to the satisfaction of the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. The petitioner shall abide by all statutory bond conditions and appear before the concerned Court(s) on all dates. The petitioner shall not tamper with the evidence, influence, browbeat, pressurize, induce, threaten, or promise, directly or indirectly, any witnesses, Police officials, or any other person acquainted with the facts and circumstances of the case or dissuade them from disclosing such facts to the Police or the Court.

12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

14. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

24.09.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.