

2024:PHHC:146161



CRM-M-55385-2024

126 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.55385 of 2024 (O&M)
Date of Decision: 07.11.2024

Balwinder Kumar ...Petitioner

Versus

State of U.T. of Chandigarh and Another ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Dhruv Gupta, Advocate for the petitioner.
Mr. Ankur Bali, Addl. P.P., U.T., Chandigarh.
Ms. Madhu Dayal, Advocate for the complainant.

ANOOP CHITKARA, J.

Criminal Complaint	No. NACT/155/2023 dated 10.01.2023, titled as “State Bank of India Vs. Balwinder Kaur” under Section 138 of the Negotiable Instruments Act,1881.
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Seeking quashing of impugned order dated 03.07.2024 passed by the trial Court in FIR captioned above vide which bail of the petitioner was cancelled and bail bonds and surety bonds were forfeited and the petitioner was summoned through warrants of arrest, the petitioner has come up before this Court under Section 528 BNSS, 2023.

2. Notice served upon the official respondent through State counsel. Counsel for the complainant puts in appearance and waives service. The nature of order this court proposes to pass, no response is required from the respondent.
3. Ld. Counsel for the petitioner contends that non-appearance was because of miscommunication about the next date of hearing, and thus, was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioner’s control.
4. The primary object of service is to secure the accused's presence in trial. The petitioner has approached this court on its own, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet. Furthermore, without adjudicating the maintainability of this petition under section 528

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BNSS and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. Thus, exercising the inherent powers under section 528 BNSS, this court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

5. **The petitioner is directed to surrender before the concerned court on or before 14.11.2024 by 11 AM and file a bail petition. Since the petitioner was earlier granted bail, as such on appearance, the concerned court shall release the petitioner on bail on the same day, subject to furnishing bail bonds to its satisfaction and imposing reasonable conditions as it may deem appropriate in the background of the accused's conduct.**

6. The petitioner shall not be arrested till 14.11.2024 at 5 PM and it is clarified that **if the petitioner does not appear before the concerned court by this date, then this order shall stand recalled automatically 403, read with 528 BNSS, without any further reference to this court.** On appearance before the trial Court, impugned order stand quashed automatically subject to payment of Rs.10,000/- to the complainant and hand over its receipt to the trial Court concerned.

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

8. *There would be no need for a certified copy of this order, 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. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent and subject to the conditions mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

07.11.2024

Sonia Puri

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No.