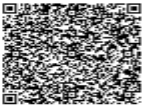


2024:PHHC:142938



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

CRM M-54325 of 2024
Date of Decision: 29.10.2024

Rakesh Kumar Yadav @ Chikku ...Petitioner
Versus
State of Haryana and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Jainainder Saini, Advocate and
Ms. Shilpa Saini, Advocate
for the petitioner.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 482 of the BNSS with a prayer to quash the impugned order dated 03.10.2024 (Annexure P-4) passed by the Additional Sessions Judge, Hisar, in Criminal Appeal bearing No. CRA-365-2024 titled as “**Rakesh Kumar Yadav @ Chikku Vs. Anuradha Soni**”, whereby, non bailable warrants have been issued against the petitioner.
2. Learned counsel for the petitioner contends that the respondent No. 2 had instituted a complaint under Section 138 of the Negotiable Instruments Act 1881 (hereinafter to be referred as '**the Act**') against the present petitioner and vide judgment and order dated 03.09.2024 (Annexure P-1), the petitioner was convicted for the

commission of offence under Section 138 of the Act and was sentenced to simple imprisonment for a period of one year and also directed to pay compensation to the tune of Rs.6,00,000/-, i.e., double of the cheque amount, to the complainant under Section 143(1) (proviso) of the Act read with Section 357(1)(1) of the Code of Criminal Procedure within a period of one month from the passing of the judgment. While passing the impugned judgment, the trial Court had granted the benefit of suspension of sentence to the petitioner for a period of 01 month so as to enable him to file an appeal before the Court of Sessions Judge, Hisar. Against the impugned order and judgment (Annexure P-1), passed by the Judicial Magistrate 1st Class, Hisar, the petitioner filed an appeal before the Sessions Judge, Hisar. The case was entrusted to the Court of Khatri Saurabh, Additional Sessions Judge, Hisar and the appeal was taken up by the appellate Court on 03.10.2024. He submits that the petitioner could not be appear before the appellate Court due to some difficulty and non-bailable warrants were issued against the petitioner.

3. Learned counsel for the petitioner further contends that the petitioner was present in the Court till 01.30 p.m. and thereafter, he went home due to some urgent call. Due to some communication gap, the counsel could not inform the Court and warrants of arrest have been issued against him.

4. Notice of motion qua respondent No. 1 only.

5. Ms. Sheenu Sura, DAG, Haryana accepts notice on behalf of respondent No.1-State.

6. In the present case, notice has not been issued to respondent No. 2/complainant just to save the time and energy of the respondent No. 2 and to ensure the speedy disposal of the appeal.

7. I have heard learned counsel for the petitioner as well as learned State counsel and perused the record.

8. In the present case, the appeal was listed before the Court of Additional Sessions Judge, Hisar, on 03.10.2024 and since the petitioner/appellant was not present before the Court, the Court had no other option except to secure the presence of the petitioner by way of non bailable warrants. Thus, there is no illegality in the impugned order passed by the Court of Additional Sessions Judge, Hisar. However, the Court is of the conscious of the fact that the petitioner had been appearing before the trial Court and only on one date, he could not appear before the appellate Court. Accordingly, taking a lenient view of the matter, the petitioner/accused is directed to appear before the Court of Sessions Judge, Hisar within a period of two weeks from today and on his appearance, he shall be admitted to bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned appellate Court.

9. The petitioner shall file an affidavit before the concerned Court that he shall appear on each and every date of hearing and shall

not remain absent during the trial without prior permission of the trial Court. In case, the petitioner does not appear on any date of hearing before the concerned Court without prior permission, it shall be viewed seriously and the necessary consequences will follow.

10. Disposed off.

29.10.2024

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No