

CRM-M-59650-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CRM-M-59650-2023
Decided on: 26.11.2024

Sanjay Kumar ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Aashish Bishnoi, DAG, Haryana.

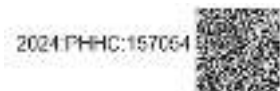
ANOOP CHITKARA, J.

Criminal Complaint	No.NACT-138 NI Act CNR No.HRKR030123192020
--------------------	---

AND

FIR No.	Dated	Police Station	Sections
1554	05.11.2023	Karnal, Civil Lines, Distt. Karnal	174-A IPC

1. After arguing for some time, counsel for the petitioner restricted his petition qua the challenging of order of proclamation on being declared a proclaimed offender.
2. Although the petitioner seeks quashing of FIR registered under Section 174 A IPC based on the proclamation orders under 82 CrPC, however on a query from this Court that whether the petitioner is appearing before the trial Court or not, he submits that the petitioner is not appearing and he was unaware about the service of notices. Counsel further submits that he confines his prayer and he be permitted to appear before the concerned Court on or before 10.12.2024. and till that time proclamation order may be stayed. He further submits that since the FIR under Section 174-A IPC has been registered, no coercive steps be taken against the petitioner till 10.12.2024.
3. In compliance to the order dated 19.11.2024, the petitioner has showed his bonafide and deposited the amount of Rs.10,000/- to PGI Poor Patient Welfare Fund, Chandigarh, receipt of which is taken on record.



CRM-M-59650-2023

2

4. I have heard counsel for the petitioner and satisfied with the offer made by petitioner's counsel and its analysis would lead to the following outcome.

5. In a prosecution under Section 138 of the Negotiable Instruments Act, 1881, the accused could not be served through the ordinary process, including summons, bailable warrants, and even through non-bailable warrants. The concerned court finally proceeded against the petitioner under section 82 of CrPC and declared the petitioner a proclaimed offender vide order dated 05.06.2023 (Annexure P-11), passed by JMIC, Karnal.

6. Petitioner's counsel submits that non-appearance was not intentional and reason for that are mentioned in para 12 of the petition.

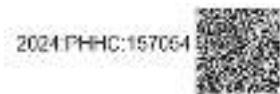
7. A perusal of the petition does not make out any case on merits. However, the criminal justice system must not hamper and suffer because of the petitioner. Thus, the court is restricting the present petition by requesting the concerned trial court to consider the petitioner's bail on priority on surrendering before the concerned court, and reserving liberty to raise the given-up relief in the subsequent petition(s), if the need so arises.

8. Given above, this court is confining the adjudication of this matter to the extent mentioned herein before, reserving the liberty to the petitioner as mentioned above.

9. The primary object of service is to secure the accused's presence in trial. The petitioner has approached this court on its own, which establishes 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. This, in the exercise of its inherent powers under Section 528 BNSS 2023, deems it appropriate to grant the limited relief to the petitioner.

10. The petitioner is directed to surrender before the concerned court **on or before 10.12.2024 by 4 PM and avail remedy in accordance with law.** Since the offence under section 138 NI Act is bailable, trial Court is requested to consider petitioner's bail on top priority on the day of its filing.

11. **There shall be a stay of the petitioner's arrest in the case mentioned above and also on the resultant FIR under section 174-A of IPC till the date of his surrender i.e 10.12.2024. It is clarified that if the petitioner fails to appear before the concerned court within time limit mentioned in this order, then this order shall stand recalled automatically without any furtherance reference to this court. It is clarified that this order be not construed as order of bail for petitioner.**



CRM-M-59650-2023

3

12. Within the given period i.e. upto 10.12.2024, petitioner is permitted to challenge the FIR u/s 174 CrPC or seek bail in the said FIR.

13. 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.

14. *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 partly allowed to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

26.11.2024
anju rani

Whether speaking/reasoned:	Yes
Whether reportable:	NO.