

285/12024:PHHC:015232

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-60573-2023 (O&M)

Date of Decision: February 05, 2024

SUBHASH CHANDER.....Petitioner

Versus

NARINDER KUMAR MITTAL.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.K. Gautam, Advocate for the petitioner.
Mr. Chandan Singh, Advocate for the respondent.

HARKESH MANUJA, J. (ORAL)

1. By way of present first application filed under Section 439 CrPC, prayer has been made for grant of regular bail. In the present case, a complaint under Section 138 of Negotiable Instruments Act, 1881 was filed against the petitioner by the respondent wherein, the petitioner was convicted vide judgment/ order of sentence dated 11.06.2018 and was sentenced to undergo imprisonment for a period of 10 months.
2. In the first appeal, the petitioner was initially granted suspension of sentence, however, later during its pendency on an application moved on behalf of the respondent-complainant, the petitioner was directed to deposit 20% of the fine amount. Followed thereby, the petitioner having failed to deposit the aforesaid amount absented himself on 05.08.2023 on account of an ailment and as a consequence thereof, non-bailable warrants were issued against him. The petitioner was later taken in custody on 03.11.2023 and is behind the bars for a period of more than three months and prays for grant of bail. Learned counsel for the petitioner has also brought a draft dated 02.02.2024 amounting to Rs.25,000/- in the name of respondent-

complainant in order to show his bona fide which has been handed over to the learned counsel representing respondent No.2.

3. The prayer made herein has been opposed at the instance of learned counsel representing respondent while submitting that the petitioner failed to comply with the directions issued by the First Appellate Court regarding deposit of 20% of fine amount and even absented himself from the process of law and thus, he does not deserve the concession of bail.

4. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

5. In the present case, the sentence awarded to the petitioner is 10 months out of which, he has already undergone a period of three months by now and has also handed over a draft of Rs.25,000/- in the name of respondent-complainant to show his bona fide. As such, this Court does not find justification to extend his incarceration any further.

6. In view of the above, without commenting anything on the merits, lest it may prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned Appellate Court/Duty Magistrate.

7. Order be given dasti.

8. Pending application(s), if any, shall also stand disposed of.

05.02.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No

