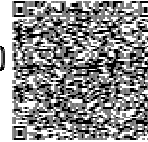


2024:PHHC:166210



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

119-2

CRM-M-60701-2024 (O&M)

Date of decision: 12.12.2024

Shyam Garg

...Petitioner

Versus

Kotak Mahindra and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

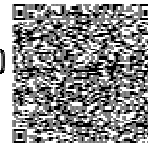
Present:- Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for quashing of order dated 23.08.2024, passed by the Court of learned Judicial Magistrate First Class, Ludhiana in case titled as ***Kotak Mahindra Bank Ltd. vs. Shyam Garg***, arising out of complaint bearing No. COMA-1359 of 2019, filed under Section 138 of the Negotiable Instruments Act, 1881, whereby the bail of the petitioner had been cancelled and non-bailable warrants had been issued against him.

2. Learned counsel for the petitioner has submitted that he has been falsely implicated in the aforesaid complaint. On appearance before the learned trial Court, the petitioner was granted concession of bail and since then he was regularly appearing before the Court. However, he absented himself from the Court proceedings on 10.07.2024, due to which, the case was adjourned to 23.08.2024. Since the petitioner could not appear even on 23.08.2024, his bail had been cancelled by the learned trial Court and

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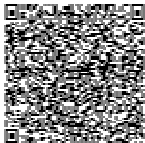


non-bailable warrants had been issued against him and even proclamation proceedings have been initiated against him, which are pending for 16.12.2024. Learned counsel for the petitioner has argued that the petitioner could not appear before the Court on the aforesaid dates due to some misunderstanding and on account of noting down wrong date. His absence before the Court on the said dates was neither intentional nor deliberate. He is ready to appear before the learned trial Court and abide by the terms and conditions to be imposed by this Court. He undertakes to attend the Court proceedings, as and when he is required to do so. It is, therefore, urged that the petition deserves to be allowed.

3. I have heard learned counsel for the petitioner at considerable length and have also gone through the material placed on record.

4. Admittedly, the petitioner was granted concession of bail by the learned trial Court. A perusal of the zimni orders placed on record by the petitioner shows that he was regularly appearing before the Court. However, he absented himself on the aforesaid dates, consequent to which, his bail had been cancelled and now proclamation proceedings have been initiated against him, which are stated to be pending for 16.12.2024. The absence of the petitioner on the aforesaid dates is obviously due to his carelessness but it does not attract the consequence of detaining him into custody through the entire trial. He is ready to join the Court proceedings. Keeping in view the aforesaid facts and circumstances, I am of the considered opinion that the petitioner deserves some leniency in the matter. In view thereof, the present petition is disposed of. The petitioner is ordered to appear before the learned trial Court on or before 16.12.2024 and on doing so, he shall be released on

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bail by the learned trial Court, subject to his furnishing fresh personal/surety bonds to its satisfaction.

5. However, this relief shall be subject to payment of cost of Rs. 10,000/-, to be deposited by the petitioner with the learned trial Court, which will be disbursed to the complainant in due course.

12.12.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No