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

**CRM-M No.8386 of 2025
Date of decision : 14.02.2025**

Dalbir Singh**.....Petitioner**

versus

Roshni and another**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Kuldeep Attri, Advocate for
Mr. Lalit Kumar Yadav, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for quashing of order dated 23.01.2025 (Annexure P-4) passed by the learned Additional Sessions Judge, Bhiwani in criminal Appeal CRA-236-2019 titled as Dalbir Singh versus Roshni and another in Criminal complaint No.933 of 2015 titled as Roshni versus Dalbir' by virtue of which the petitioner has been held guilty and convicted for the offence punishable under Section 138 of Negotiable Instruments Act whereby the surrender-cum-bail application moved by the petitioner has been dismissed by the learned ASJ, Bhiwani and further to pay compensation to the tune of Rs.2,50,000/- in terms of Section 357(3) Cr.P.C. to the complainant and the criminal appeal CRA-236-2019 is pending for 20.02.2025 before the learned ASJ, Bhiwani
2. It has been contended by counsel for the petitioner that the petitioner was convicted and sentenced by the learned trial Court for the offence punishable under Section 138 of Negotiable Instruments Act vide



order dated 06.05.2019/08.05.2019. He has submitted that the petitioner assailed the same by way of filing an appeal before the learned Sessions Judge, Bhiwani. He has submitted that his sentence was suspended and the petitioner was duly appearing before the learned Appellate Court. However on 09.01.2025, due to his medical condition, the petitioner could not appear and thus, filed an application for granting him exemption but the same was not granted and the bail bonds/surety bonds of the petitioner were cancelled and forfeited to the State. He has submitted that the petitioner filed an application for surrendering before the Court, however the same was declined by virtue of impugned order dated 23.01.2025. He has submitted that absence of the petitioner on the date fixed was totally unintentional and was purely on medical ground. He has further submitted that the petitioner is ready to appear before the learned trial Court and abide by the terms and conditions imposed upon him.

3. Notice of motion to official respondent No.2 at this stage.

4. On asking of the Court, Mr. Sumit Jain, Addl. A.G., Haryana appears and accepts notice on behalf of respondent No.2-State. He has opposed the submissions made by learned counsel for the petitioner and has stated that the trial Court has rightly declared the petitioner as proclaimed person who remained absent from the Court without any valid reason.

5. After hearing counsel for the parties and perusing the record, it is apparent that sentence of the petitioner was suspended by the learned Appellate Court. However he failed to appear before the learned Appellate Court and thus his bail bonds and surety bonds were cancelled and forfeited to the State. As submitted by learned counsel for the petitioner



that the petitioner was suffering from Neuro problem, due to which he remained absent. However perusal of the order would show that the petitioner did not appear before the Court by taking the Court proceedings lightly. In the facts and circumstances, it cannot be ignored that sentence of the petitioner was suspended. Without commenting anything about the authenticity of the ground of absence taken by the petitioner, this Court proceed to decide the matter as now the petitioner is ready and keen to join the proceedings. So keeping in view the abovesaid facts, the present petition is disposed of and the impugned order dated 23.01.2025 is hereby *set aside* subject to payment of Rs.10,000/- as costs to be paid to the Spinal Rehab Centre, Sector 28-A, Madhya Marg, Chandigarh within a period of 07 days from today. In case the petitioner appears before the trial Court and files appropriate application along with receipt of costs before the trial Court within a period of 10 days from today, the trial Court will admit him to bail subject to its satisfaction during the pendency of trial and proceed with the trial as per law. Petitioner will have protection from arrest for a period of 10 days from today.

6. Needless to say that in case the petitioner fails to comply with the abovesaid direction, he have no benefit of this order and the order dated 23.01.2025 would stand automatically revived and the present petition shall be deemed to have been dismissed.

7. Disposed of in above terms.

14.02.2025

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Whether speaking/reasoned
Whether reportable

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Yes/No
Yes/No

(RAJESH BHARDWAJ)
JUDGE