

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-36285-2017 (O&M)

Date of decision: 30.08.2018

Anita and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Vishal Khatri, Advocate for
Mr. VK Jindal, Advocate for the petitioners.

Mr. Harpreet Multani, AAG, Punjab.

Mr. SS Grewal, Advocate for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

CRM-29672-2018

Allowed as prayed for.

Copies of orders dated 05.08.2017, 25.08.2017, 29.08.2017, 01.09.2017 and 22.09.2017 (Annexures P-7 to P-11, respectively) are taken on record, subject to all just exceptions. Office to tag the same at the appropriate place.

CRM-M-36285-2017

At the outset, learned counsel for the petitioners submits that he may be permitted to withdraw the instant petition qua petitioner No. 2- Darshna Devi, in view of grant of regular bail to her by the Apex Court.

Ordered accordingly.

Through this petition under Section 482 Cr.P.C., prayer has been made for quashing impugned order dated 22.09.2017 (Annexure P-6)

of trial Court, whereby non-bailable warrants were issued to procure the presence of the petitioners No. 1 and 3 to 5 in case FIR No. 91 dated 25.07.2016 (Annexure P-1) registered under Sections 302, 307, 447, 506, 148 and 149 IPC and Section 25 of the Arms Act at Police Station Delhon, District Ludhiana.

In nutshell, petitioners No. 1 and 3 to 5 along with their co-accused were booked under Sections 302, 307, 447, 506, 148 and 149 IPC and Section 25 of the Arms, vide FIR Annexure P-1. During investigation, they were found innocent. Resultantly, they were placed in Column No. 2 of the final report under Section 173(2) Cr.P.C., submitted before the Court. Thereafter, upon the application of respondent No. 2-complainant under Sections 190, 239 and 240 Cr.P.C., the trial Court vide order dated 05.08.2018 (Annexure P-5) summoned petitioners No. 1 and 3 to 5 through bailable warrants to face trial along with their co-accused for 25.08.2017, on which date, their bailable warrants were not received back served or otherwise. Consequently, petitioners No. 1 and 3 to 5, were ordered to be summoned afresh for 29.08.2018. On the said date also, bailable warrants of petitioners No. 1 and 3 to 5 did not receive back served or otherwise. Therefore, they were again ordered to be summoned for 01.09.2017, on which date the case was adjourned to 22.09.2017, for the same purpose. On the said date, petitioners No. 1 and 3 to 5 instead of surrendering before the trial Court, moved application under Section 438 Cr.P.C. for grant of anticipatory bail to them which was dismissed by the trial Court. Consequently, petitioners No. 1 and 3 to 5, were ordered to be summoned through non-bailable warrants by the trial Court vide impugned order Annexure P-6, after recording its satisfaction that their presence cannot be

secured without issuing non-bailable warrants.

Learned counsel *inter alia* contends that petitioners No. 1 and 3 to 5 were never served through bailable warrants. Therefore, procuring of their presence through non-bailable warrants by the trial Court is completely illegal.

On the other hand, learned State counsel assisted by learned counsel for respondent No. 2-complainant vehemently opposing the above submission of learned counsel for petitioners No. 1 and 3 to 5, submits that petitioners had the knowledge about order dated 05.08.2018 (Annexure P-5), therefore, it was their bounden duty to appear before the trial Court well in time instead of moving application for grant of pre-arrest bail to them. Since, the presence of petitioners No. 1 and 3 to 5 could not be procured through bailable warrants by the trial Court, therefore, under forced circumstances it had ordered for procuring their presence through non-bailable warrants.

Having given considerable thoughts to the rival submissions of both the side, the Court finds the instant petition completely devoid of any merit for the reasons to follow:

It is a case of ill advice to petitioners No. 1 and 3 to 5. They themselves are responsible for making the things complicated, inasmuch, as vide order dated 05.08.2018 (Annexure P-5), they were summoned only through bailable warrants. Therefore, simple thing which was required for the petitioners was to appear before the trial Court and get their regular bail which, in ordinary course, must have been granted, to them in view of the fact that they were never ordered to be summoned through non-bailable warrants.

Petitioners, instead of appearing before the trial Court, moved their anticipatory bail application which was not required to be filed at all, as at no point of time, their arrest was ordered. Non-appearance of petitioners before the trial Court, despite having knowledge of their summoning throughailable warrants to face trial along with their co-accused, amounts to intentional and deliberate act. Petitioners may be innocent, but are definitely the victims of ill advice.

Since, petitioners have repeatedly flouted the Court orders, despite knowledge, they do not deserve any concession from this Court. Therefore, the instant petition is dismissed, with a direction to petitioners No. 1 and 3 to 5 to appear before the trial Court within a week from today along with their application for grant of regular bail, which shall be decided by the trial Court within next two days.

August 30, 2018
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No