

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

125

CRM-M-42613-2021

Date of Decision: 08.10.2021

Bishwadeep Dutta

...Petitioner

Versus

Central Bureau of Investigation

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Alok Mittal, Advocate, for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking quashing of an order dated 06.10.2021 (Annexure P-1), whereby non-bailable warrants have been issued against the petitioner on account of his absence before the trial Court in proceedings arising out of FIR No.RCCHG2014A0021 dated 09.12.2014 registered at ACB, CBI, Chandigarh, under Sections 120-B read with Section 420 IPC and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act.
2. Notice of motion.
3. On the asking of the Court, Mr. Sumeet Goel, Advocate, puts in appearance on behalf of the respondent/CBI.
4. The petitioner has been facing trial in the aforesaid FIR and has been appearing before the trial Court consequent upon the petitioner having been granted bail ever since the year 2016. However, on account of the petitioner's absence on 06.10.2021,

the trial Court vide impugned order dated 06.10.2021 ordered for securing his presence through non-bailable warrants. The operative part of the order reads as follows:

“Case called several times since morning. But none has appeared on behalf of the accused Jimmy K Subawalla & Bishwadeep Dutt. It is already 03:45 PM. Waited sufficiently. Further wait is not justifiable. AS such, accused Jimmy K Subawalla & Bishwadeep Dutt be now summoned through non-bailable warrants of arrest for 11.10.2021”

5. Learned counsel for the petitioner has submitted that he has been appearing regularly before the trial Court since the last about 5 years and there has not been any default on his part ever since and that in these circumstances, the order passed by the trial Court in issuing non-bailable warrants in the very first instance upon absence of the petitioner on 06.10.2021 is not justified and that it was basically on account of some mis-communication that he could not appear on the said date. Learned counsel has further submitted that immediately upon coming to know about the passing of the said order, he contacted his lawyer and that he is willing to appear immediately before the trial Court.
6. Opposing the petition, learned counsel representing the respondent/CBI, has submitted that since the petitioner had violated the conditions of grant of bail, no case for taking any lenient view is made out.
7. I have considered rival submissions addressed before this Court.

8. It is not in dispute that the petitioner has been regularly appearing before the trial Court ever since the year 2016. The absence of the petitioner on 06.10.2021 is stated to be on account of some miscommunication between the petitioner and his lawyer, which can safely be accepted given the past conduct of the petitioner, who has been appearing regularly. In any case, since the petitioner is willing to appear on the date fixed before the trial Court i.e. 11.10.2021, the instant petition is disposed of with a direction to the petitioner to appear before the trial Court on the date fixed. Since the trial Court has not cancelled the bail bonds of the petitioner, it shall be open to the trial Court to consider as to whether any fresh bail bonds are required and/or any other condition is required to be imposed upon the petitioner or not.
9. Accordingly, the operation of the impugned order as far as the same pertains to securing the petitioner's presence through non-bailable warrants shall be kept in abeyance qua the petitioner.

08.10.2021

Vimal

**(GURVINDER SINGH GILL)
JUDGE**Whether speaking/reasoned: **Yes/No**Whether reportable: **Yes/No**