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

CRM-M-52584-2021

Date of decision : 16.12.2021

Suraj

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Sharma, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for setting aside the order dated 18.11.2021 (Annexure P-2) in FIR No.229 dated 27.08.2018 registered under Sections 454, 380 of the Indian Penal Code, 1860 (Sections 379, 482, 411,34 of IPC have been added later on) at Police Station Division No.6, District Police Commissionerate Jalandhar, Punjab.

Learned counsel for the petitioner has submitted that in the present case, after registration of the abovesaid FIR, the petitioner was granted bail and had been regularly appearing before the trial Court and only on one date i.e. on 18.11.2021, the petitioner could not appear in time before the Court owing to his newly born child being unwell and in fact, appeared before the trial Court at 11.30 am, but by that time, impugned

order had already been passed and the bail bonds and surety bonds of the petitioner had already been cancelled. It is argued that the case is now fixed for 05.01.2022 and the petitioner would appear within a period of 15 days from today before the trial Court in case the concession is granted to the petitioner and would keep appearing before the trial Court on all dates except on those dates when the personal appearance of the petitioner has been specifically exempted by the Court.

Notice of motion to respondent No.1 only.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of respondent No.1 and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that on account of non-appearance of the petitioner, delay had been caused in the trial and has submitted that in case, the petitioner is permitted to join the proceedings then some costs should be imposed upon him which should be paid to the complainant in the case.

Keeping in view the abovesaid facts and circumstances, more so the fact that the impugned order had been passed on 18.11.2021 on account of the fact that the petitioner could not appear on one date and had been earlier regularly appearing and has come before this Court prior to the next date i.e. 05.01.2022 and has further undertaken to appear within a period of 15 days from today before the trial Court and has also undertaken to appear on each and every date except the date on which personal appearance of the the petitioner is exempted, the present petition is allowed and the impugned order dated 18.11.2021 is set aside, subject to the petitioner appearing

before the trial Court within a period of 15 days from today and on his appearance, the petitioner would be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the concerned trial Court and also subject to giving demand draft amounting to Rs.10,000/- in the name of the complainant within abovesaid period of 15 days to which amount the complainant would be entitled to and also subject to the petitioner appearing before the trial Court on each and every date except on the date when his personal appearance is exempted by the Court.

It is made clear that in case, the petitioner does not appear before the trial Court within a period of 15 days from today and does not deposit/handed over the demand draft amounting to Rs.10,000/- in the name of complainant within the aforesaid period, then the present petition would be deemed to have been dismissed.

In the present case, notice has not been issued to respondent No.2 as no order prejudicial to the rights of respondent No.2 is being passed and also since the main purpose of the issuance of non-bailable warrants is to secure the presence of the petitioner and the same is being secured by virtue of the undertaking given by the petitioner and thus, issuance of notice would also result in delay which would only harm the interest of respondent No.2 and respondent No.2 is also being compensated for delay in the proceedings.

16.12.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**