

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-3747-2022

Date of decision : 01.02.2022

Rekha

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.J.S.Thakur, Advocate
for the petitioner.

Mr.V.G.Jauhar, Sr.DAG, Punjab.

(Through Video Conferencing)

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 Jalandhar Commissionerate, Punjab.

Learned counsel for the petitioner has submitted that in the present case, after registration of the above said FIR, the petitioner was granted bail on 15.09.2018 and since the said date, she had been regularly appearing before the trial Court and it is only on one date i.e. on 18.11.2021, that the petitioner could not appear before the Court because

the counsel for the petitioner appearing before the trial Court, did not inform the petitioner about the said date and was not even responding to the calls of the petitioner and even the clerk of the said counsel was not responding to the calls of the petitioner. It is on account of said fact that the petitioner could not appear on 18.11.2021 and the impugned order was passed on the said date vide which the bail bonds and surety bonds of the petitioner along with one Suraj, co-accused were cancelled and forfeited to the State and the order granting bail to the petitioner and co-accused Suraj was also cancelled and non-bailable warrants were issued. It is further submitted that 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. It is further submitted that the case is now fixed before the trial Court for 24.02.2022.

Notice of motion to respondent No.1 only.

On advance notice, Mr. V.G.Jauhar, Sr.DAG, 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 her which should be paid to the complainant in the case.

Keeping in view the above said facts and circumstances, moreso 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 the said one date

and the fact that prior to the said date, the petitioner had been appearing regularly 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 specifically exempted, and also keeping in view the order passed in CRM-M-52584-2021 on 16.11.2021 in the case of co-accused Suraj, 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 her appearance, the petitioner would be released on bail subject to her furnishing bail bonds and surety bonds to the satisfaction of the concerned trial Court and also subject to her giving demand draft amounting to Rs.10,000/- in the name of the complainant within the above said 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 her 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/hand 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.

(VIKAS BAHL)
JUDGE

February 01, 2022

Davinder Kumar

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