

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122

CRM-M-5741-2022
Decided on : 11.02.2022

Parminder Singh @ Nishu

. . . Petitioner

Versus

State of Punjab and another

. . . Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL
(Through Video Conferencing)

PRESENT: Mr. Gopal Singh Nahel, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of the impugned order dated 22.09.2021 (Annexure P-5) passed by Ld. Judge, Special Court, Patiala qua the petitioner whereby the bail orders of the petitioner were cancelled and his bail bonds and surety bonds were also cancelled and forfeited.

Learned counsel for the petitioner has submitted that in the present case, FIR No. 47 dated 19.06.2018 was registered against the petitioner under Section 22 of the Punjab Excise Act 1914 and the petitioner was granted bail on 28.11.2019 by a Coordinate Bench of this Court and thereafter, had been regularly appearing before the trial Court and thereafter on account of COVID-19 virus, the matter was being

adjourned without any effective hearing and even on 09.07.2021, no PW was present in the Court and the matter was adjourned and it was also noticed that there was COVID-19 pandemic situation and thus the matter was adjourned to 22.09.2021, after issuing of production warrants of accused Mukesh Kumar. On 22.09.2021, the impugned order was passed on account of non-appearance of the petitioner. It is submitted that the petitioner was under the impression that the matter would again be adjourned on account of COVID-19 pandemic situation as had been happening on previous occasions.

Notice of motion.

Learned State counsel is fully prepared to assist the Court and has opposed the present petition for setting aside the order dated 22.09.2021 and has submitted that in the present case on 22.09.2021, two witnesses had come present out of which one was given up but one witness Jaspal Singh, had come present to the Court but his evidence could not be examined on account of the present petitioner not being present and thus, the trial had been delayed on account of the absence of the petitioner. It is submitted that the impugned order passed deserves to be upheld.

This Court has heard the learned counsel for the parties and has perused the paperbook.

The petitioner was granted bail by a coordinate Bench of this Court vide order dated 28.11.2019. A perusal of the Zimni orders

would show that on 23.01.2020, the petitioner had appeared in custody. On the next date i.e. 18.02.2020, the presence of the petitioner had been marked and he was stated to be on bail. On 04.04.2020 and 01.05.2020, the case was taken up on dates prior to the actual dates. On 16.07.2020 and 14.09.2020, it was noticed that the Court was working in a restrictive manner due to outbreak of COVID-19 pandemic situation. On 17.11.2020, it was observed that the Courts had resumed partial working and notice was issued to the accused and thereafter, on 15.02.2021, it was noticed that the notice was issued to the petitioner had been received back unserved and on 19.04.2021 as well as on 09.07.2021, no PW had appeared and thereafter, the matter was adjourned to 22.09.2021 on which 2 PWs had appeared, out of which one had been given up and one PW could not be examined since the petitioner was stated to be absent. The abovesaid Zimni orders would show that the petitioner had been appearing before the Court and on a large number of dates, there was restrictive hearing in Court on account of outbreak of Covid-19 pandemic. It is only on 22.09.2021 that the petitioner did not appear, nor had sought any exemption and thus, the order of cancellation of bail was passed.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the order dated 22.09.2021 is set aside, subject to payment of Rs.5,000/- to the High Court Lawyers' Welfare Fund within a period of 21 days from today and also subject to the

petitioner appearing before the trial Court within a period of 21 days from today and on his appearance, the trial Court is directed to release the petitioner on his furnishing fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

It is made clear that if the petitioner does not appear before the trial Court within 21 days or does not deposit the amount of Rs.5,000/- in the High Court Lawyers' Welfare Fund within the specified period of 21 days, then the present petition would be liable to be dismissed.

(VIKAS BAHL)
JUDGE

February 11th, 2022
Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No