

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

CRM-M-8253-2021

Date of Decision: September 29, 2022

Amritpal Singh @ Tufan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Amandeep Singh Samra, Advocate for the petitioner.
Mr. P.S. Pandher, AAG, Punjab.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing and setting aside the order dated 19.07.2018 (Annexure P-3) vide which the bail bonds and surety bonds of the petitioner have been cancelled, order dated 12.09.2018 (Annexure P-4) vide which the petitioner has been declared as proclaimed offender.

Learned counsel for the petitioner submits that the petitioner was involved in FIR No.03, dated 09.01.2015, under Sections 302, 201, 379, 411, 120-B of IPC and Section 25 of the Arms Act, 1959, Annexure P-1, wherein he was granted bail vide order dated 22.12.2016 by a coordinate Bench of this Court passed in CRM-M No.44675 of 2016, Annexure P-2. He further submits that thereafter, the petitioner had been diligently appearing before the trial Court without any default up to the year 2018. During the interregnum, the petitioner got involved in another FIR No.83, dated 28.06.2018 and was granted regular bail vide order dated 25.11.2020 by the trial Court, Annexure P-5. Owing to the registration of the above FIR, he could not keep up with the proceedings

of the case in FIR No.3, dated 09.01.2015. Consequently, on 19.07.2018 he did not appear before the learned trial Court. Accordingly, his bail bonds and surety bonds were cancelled and forfeited to the State and non-bailable warrants were issued against him for 26.07.2018. Thereafter, the proceedings under Section 82 of Cr.P.C. were initiated against the petitioner and he was declared as proclaimed offender, vide order dated 12.09.2018, Annexure P-4. The petitioner was arrested on 14.05.2019 in FIR No.83, dated 28.06.2018 and he was granted regular bail vide order dated 25.11.2020 by the trial Court, thus he was not able to appear before the Court on any date subsequent to 19.07.2018 in FIR No.3 of 09.01.2015. Petitioner having been declared as proclaimed offender in the above FIR has not been released despite bail having been granted on 25.11.2020 in FIR No.83, dated 28.06.2018 and as such is still in custody.

Learned counsel for the petitioner further submits that the absence of the petitioner on 19.07.2018 was not intentional and deliberate but for the reason aforesaid. He, however, submits that the petitioner is ready and willing to surrender before the trial Court. He prays for grant of only one opportunity to appear before the trial Court and join the proceedings even, if it is subject to costs.

In support of his arguments learned counsel for the petitioner relies upon judgment dated 19.01.2022, passed by this Court in CRM-M-968-2022 titled as “Manpreet Singh Vs. State of Punjab” and in CRM-M-38277-2022 dated 26.08.2022, in the case of “Surjit Singh Vs. State of Punjab”.

The learned counsel further prays that the petitioner be allowed to remain on the same bail bonds and surety bonds, which had already been submitted by him before the learned trial Court. In this regard, he places reliance on the judgment dated 09.09.2022 passed by this Court in case of ***“Raghav vs State of Punjab”*** in CRM-M-39000 of 2022, the P.O. proceedings qua the petitioner therein were quashed as he could not appear before the trial Court as he was in admitted in Drugs Rehabilitation Centre and was also allowed to remain on the same surety/bail bonds.

Learned State counsel on the other hand submits that in FIR No.03, dated 09.01.2015, the defence evidence is going on. The next date fixed is 19.10.2022. The impugned order has rightly been passed on account of the absence of the petitioner.

Heard learned counsel for the parties.

The reason for non-appearance of the petitioner on 19.07.2018, was on account of lodging of FIR No.83, dated 28.06.2018 due to which he could not keep up with the proceedings in the instant FIR. The explanation offered by the petitioner for his non-appearance in this case before the trial Court seems justified. Moreover, the very purpose of issuance of non-bailable warrants, is to secure the presence of the petitioner before the trial Court.

This Court in case of Raghav (supra), Manpreet Singh (supra) and Surjit Singh (supra) in somewhat similar circumstances set aside the order of issuance of non-bailable warrants in a case where the petitioner gave sufficient reasons for his non-appearance before the trial

Court.

Keeping in view the aforesaid peculiar facts and circumstances of the case and the judgments passed by this Court, referred to above, the impugned order dated 19.07.2018 and 12.09.2018 are set aside, subject to deposit of Rs.5000/- with the District Legal Services Authority, Sangrur. The petitioner shall appear before the trial Court on the date fixed. The petitioner be allowed to remain on the same bail/ surety bonds as has been furnished by him at the time for granting regular bail in FIR No.03, dated 09.01.2015

Accordingly, the present petition is allowed.

However, it is clarified that in the eventuality of the petitioner not complying with the aforesaid order, the present petition shall be deemed to have been dismissed with no further reference to this Court.

(AMAN CHAUDHARY)
JUDGE

September 29, 2022

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