

117

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

CRM-M-7862-2022
Date of decision : 24.02.2022

Balwinder Singh @ Bindu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rakesh Kumar, Advocate for petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 29.11.2021 (Annexure P-5) whereby the bail orders, bail bonds and surety bonds of the petitioner alongwith another co-accused have been cancelled and forfeited to the State.

Learned counsel for the petitioner has submitted that in the present case, FIR was registered under Sections 379-B/34 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Dhilwan, District Kapurthala on 13.08.2018, in which the petitioner was granted regular bail by the Sessions Judge, Kapurthala vide order dated

14.11.2018 (Annexure P-2) and it has been submitted by the learned counsel for the petitioner that the petitioner had been regularly attending the Court since the date of grant of the said bail and on 29.11.2021, the petitioner could not appear on account of noting a wrong date. It is argued that on 29.11.2021, no witness was present and thus, the trial has not been delayed on account of said non-appearance. It is further argued that the petitioner had earlier filed a petition for anticipatory bail which he had withdrawn in view of the fact that the said anticipatory bail was not maintainable. It is contended that the petitioner would appear within a period of 15 days from today before the trial Court, in case, he is granted protection and for the loss caused to the complainant, he is also ready to pay Rs.5000/- to the complainant. It is further contended that the petitioner would keep on appearing on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and submitted that the impugned order had been passed correctly and in accordance with law inasmuch as the petitioner alongwith the co-accused Satnam Singh had neither appeared nor they had given any application for exemption from personal appearance and thus, it was the duty of the Additional Sessions Judge, Kapurthala to have cancelled the bail bonds and forfeited the same to the State.

This Court has heard learned counsel for the parties and has

perused the paper book.

The petitioner was granted bail on 14.11.2018. It is the case of the petitioner that he had been regularly appearing since then and on account of noting of wrong date, the petitioner could not appear on 29.11.2021. A perusal of the order dated 29.11.2021 would show that no witness was present on the said date and thus, non-appearance of the petitioner has not caused much delay in the trial. The petitioner had been pursuing his remedy inasmuch as the petitioner has earlier filed anticipatory bail which was withdrawn on account of the same not being maintainable with liberty to file fresh petition after annexing all the relevant documents.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court within a period of 15 days from today and to also appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court. Since, the purpose of issuance of non-bailable warrants was to secure the presence of the petitioner, thus, the interest of justice would be met, in case, the impugned order is set aside and the petitioner is directed to appear before the trial Court within a period of 15 days.

Keeping in view the abovesaid facts and circumstances, the present petition is partly allowed and the impugned order dated 29.11.2021 (Annexure P-5) is set aside qua the petitioner subject to the petitioner appearing before the trial Court within a period of 15 days from today and on his appearance, the trial Court is directed to release the petitioner on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to the petitioner

depositing an amount of Rs.5000/- within the stipulated time with the trial Court, which would be paid to the complainant by the trial Court and would also be subject to the petitioner giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is personally exempted by the Court.

In this case, notice has not been issued to the complainant as he has not been made a respondent party by the learned counsel for the petitioner in the present petition and as no order prejudicial to the rights of complainant, is being proposed to be passed by this Court and issuance of notice would only further delay the matter which would cause prejudice to the complainant and since the main purpose is to make the petitioner appear before the trial Court, thus, the present petition is disposed of without issuance of notice to complainant.

It is, however, clarified that in case, the petitioner does not appear within 15 days from today before the trial Court and does not deposit the costs of Rs.5000/- then the present petition would be deemed to have been dismissed.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

24.02.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**