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

CRM-M-10687-2022

Date of decision : 11.03.2022

Arvind Malik

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Samridhi Sareen, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for setting aside the order dated 21.02.2022 passed by the Additional Sessions Judge, Gurugram whereby bail granted to the petitioner has been cancelled and his bail bonds and surety bonds have been cancelled and forfeited to the State and non-bailable warrants have been issued against the petitioner for 14.03.2022.

Learned counsel for the petitioner has submitted that the petitioner was granted the anticipatory bail by the Coordinate Bench of this Court vide order dated 06.07.2021 (Annexure P-3) passed in CRM-M-54859-2019 and the petitioner had been regularly appearing before the trial Court and could not appear on 21.02.2022 on account of the fact that the

petitioner was suffering from ill health and was hospitalized and with respect to the same, learned counsel for the petitioner has referred to the medical record (Annexure P-4). It is further submitted that no delay has been caused on account of absence of the petitioner as there were no prosecution evidence present on 21.02.2022. It is argued that on account of non-presence of the petitioner, the bail of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State and non-bailable warrants were issued for 14.03.2022 as well as notice to his surety and identifier was also issued. It is further argued that the bona fide of the petitioner is apparent from the fact that the petitioner has approached this Court even before the next date i.e. 14.03.2022. It is contended that the petitioner would appear within a period of 10 days from today before the trial Court, in case, he is granted interim relief and is also ready to deposit Rs.2000/- with the trial Court and also undertakes to appear before the trial Court on each and every date unless his appearance is personally exempted by the Court.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, 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 has submitted that the impugned order had been correctly passed as the petitioner despite having the knowledge of the proceedings, has not appeared before the trial Court on 21.02.2022.

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

The petitioner was granted anticipatory bail by the Coordinate Bench of this Court vide order dated 06.07.2021 in CRM-M-54859-2019 (Annexure P-3) and it is the case of the petitioner that the petitioner has been subsequently appearing regularly before the trial Court and could not appear only on one date i.e. on 21.02.2022 on account of illness which fact also stands prima facie substantiated from the medical record (Annexure P-4). The bona fide of the petitioner is also apparent from the fact that the petitioner has approached this Court prior to the next date fixed before the trial Court i.e. 14.03.2022 and has also undertaken to appear before the trial Court within a period of 10 days from today. A perusal of order dated 21.02.2022 would show that no prosecution evidence was present.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 21.02.2022 is set aside and the bail bonds and surety bonds which have been submitted by the petitioner would stand restored, subject to the petitioner appearing before the trial Court within a period of 10 days from today and subject to deposit of an amount of Rs.2,000/- with the trial Court, which would be paid to the complainant by the trial Court and the same 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 case, the petitioner appears before the trial Court within a period of 10 days from today and deposit the said amount of Rs.2,000/-, then the petitioner would be released on interim bail subject to the satisfaction of the concerned trial 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 a period of 10 days from today before the trial Court and does not deposit an amount of Rs.2,000/- then the present petition would be deemed to have been dismissed.

11.03.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**