

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 14244 of 2022 (O&M)
Date of Decision: 21.4.2022**

Harpreet Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. On 29.3.2022, as unfolded by an order made by the learned Additional Sessions Judge, Ludhiana, case titled State versus Harpreet Singh, bearing CIS No. NDPS/226/2020, became listed for adduction of prosecution evidence. On date (supra), for want of the petitioner herein, recording his personal appearance, before the learned trial Judge concerned, and, despite the lis being repeatedly called, led the learned trial Judge concerned, to make an order for cancellation, and, forfeiture of the personal, and, surety bonds, to the State, and, also led the learned trial Judge concerned, to issue non-bailable warrants against the accused concerned, and, made them returnable for 14.4.2022.

2. The personal, and, surety bonds, as became furnished by the petitioner herein, an accused in case (supra), were in pursuance to his becoming admitted to bail through a decision made on 09.3.2022, upon CRM-M-50049-2021. Though, the listing of the lis (supra) for adduction of prosecution evidence, was hence for an efficacious purpose, and, also required

the personal presence of the petitioner herein along with his defence counsel whereas for their repetitive absences, he rather became discharged by the learned trial Judge concerned. However, with the learned Judge concerned, mentioning in the order of 29.3.2022, that despite the *lis* being repeatedly called since morning, yet none appearing on behalf of the accused, rather, thereupon, a conclusion is drawable that the accused was represented by a validly engaged counsel, to defend him in the trial concerned. Therefore, it became incumbent upon the validly engaged defence counsel to record his appearance, on behalf of the petitioner, on the date when the *lis* became listed for adduction of prosecution evidence. It appears that the learned defence counsel omitted to record his appearance, and, his absence leading to the making of the order of 29.3.2022. The absences, if any, of the counsel engaged by the accused to defend him in the trial concerned, is not required to be carrying any exacting effect upon, the personal, and, surety bonds, as became furnished by the present petitioner, inasmuch as it leading the learned trial Judge concerned, to cancel, and, forfeit them, with the harsh consequences of the respective estates becoming entailed, with oppressive consequence(s) of moneys carried therein, becoming recoverable from their respective sureties. If the afore step was required to be undertaken, it enjoined the issuance prior thereto of a show cause notice, upon, the accused, and, the surety, for hence an explanation emanating from the concerned, appertaining to the absence(s) of accused on 29.3.2022. However, the afore has not been resorted by the learned trial Judge concerned. Therefore, the principles of natural justice become breached rendering obviously the impugned order to be vitiated.

3. Even otherwise, as afore stated, it was the duty of the counsel engaged by the accused to, on the relevant date, appear on his behalf, for cross-examining the prosecution witness concerned, and, the personal appearance of

the accused on that date, though was also imperative, as recording of the depositions of the prosecution witness concerned, is an efficacious proceeding. Nonetheless, only if there was cogent evidence available with the learned trial Judge concerned, to assure his judicial conscience, that the counsel engaged by the accused, to defend him, could not make cross-examination upon the witness concerned, unless the accused appeared along with him, thereupon, the impugned order may be construed to be prima facie valid. However, the afore evidence is not displayed to be existing in the order, challenged before this Court. Therefore, merely upon the absences on the relevant date, of the learned counsel for the accused, it could not bring against the accused, the harsh consequences of his personal, and, surety bonds, being ordered to be forfeited, and, thereafter non-bailable warrants being issued against him, for his recording his personal appearances, before the learned trial Judge concerned, and, that too as stated above, without adherence to the principles of natural justice.

4. Consequently, the impugned order is quashed, and, set aside. The non-bailable warrants, if not issued, be not issued, and, if issued, they be recalled forthwith.

5. The petition stands disposed of.

(SURESHWAR THAKUR)
JUDGE

April 21, 2022
Gurpreet

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