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

CRM-M-14647-2022

Date of decision : 06.04.2022

Harpreet Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rajpreet Sidhu, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Naveen Sharma, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 28.09.2021 (Annexure P-4) passed by the Sub Divisional Judicial Magistrate, Khanna, District Ludhiana in case titled as “State Vs. Mehnaz Chauhan” in case FIR No.24 dated 14.02.2020 registered under Sections 406/420/506/120-B of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Khanna City-II, Police District Khanna, District Ludhiana (Rural) (Annexure P-1) whereby, the bail and bail bonds of the petitioner have been ordered to be cancelled.

Learned counsel for the petitioner has submitted that in the present case, FIR was registered on 14.02.2020 and the petitioner was arrested and thereafter was subsequently released as per the guidelines issued by the

High Powered Committee. It is further submitted that the petitioner could not appear on 28.09.2021 on account of the fact that his wife was unwell and she was taken to the Hospital by him. With respect to the same, reference has been made to the Medical Certificate issued by the Ram Hospital, Khamano which has been annexed as Annexure P-6 with the present petition. It is contended that non-appearance of the petitioner on 28.09.2021 was due to a genuine and bona fide reason. It is further contended that the petitioner had earlier filed petition for grant of anticipatory bail bearing No.CRM-M-6805-2022 which was dismissed by the Coordinate Bench of this Court on 18.02.2022 on the ground of maintainability. It is argued that although in the concluding part of the said order, it was mentioned that in case, the petitioner surrenders before the trial Court/Duty Magistrate concerned within a period of 7 days and files an application for bail, then the same would be heard and decided expeditiously in accordance with law. It is further argued that the same was not a direction but an option given to the petitioner. It is contended that the petitioner while exercising that option entered into the compromise dated 10.01.2022 (Annexure P-2), as per which, the dispute between the parties has been settled and the petitioner and his wife have even approached this Hon'ble Court by way of filing a petition bearing No.CRM-M-13124-2022 under Section 482 of Cr.P.C. for quashing of abovesaid FIR on the basis of compromise. It is further submitted that the said case is now fixed for 26.04.2022 and the report of the trial Court with respect to the compromise is awaited. It is further contended that the anticipatory bail application of the petitioner was dismissed on the ground that it was not maintainable as per law laid down by the Hon'ble Supreme Court in **Manish Jain Vs. Haryana State Pollution Control Board** [SLP (Criminal) No.5385 of 2020 decided on 20.11.2020] but the present

petition under Section 482 of Cr.P.C. is maintainable and, at any rate, since the compromise has been entered into between the parties, it is prayed that the present petition be entertained.

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 on the ground that the petitioner had not appeared on 28.09.2021 before the trial Court and thus, order dated 28.09.2021 (Annexure P-4) is legal and in accordance with law.

Mr. Naveen Sharma, Advocate has put in appearance on behalf of respondent No.2 and has reiterated the fact that the matter has been compromised and has also prayed that the present petition be allowed and the impugned order dated 28.09.2021 (Annexure P-4) be set aside.

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

The present FIR was registered on 14.02.2020 under Sections 406/420/506/120-B of the IPC and the petitioner was arrested and thereafter subsequently released, as per the guidelines issued by the High Powered Committee, by this Hon'ble Court. On 28.09.2021, the petitioner could not appear before the trial Court on account of the fact that his wife was unwell and she had to be taken to the Hospital by him and regarding the same, the Medical Certificate has been annexed as Annexure P-6 with the petition. It is further stated that the compromise has been effected between the petitioner and respondent No.2 and for the said purpose, reference has been made to compromise dated 10.01.2022 (Annexure P-2). Moreover, on the basis of the

said compromise, the petition under Section 482 of Cr.P.C. for quashing of the present FIR has already been filed and in the said case, notice of motion has been issued and the said case is now fixed for 26.04.2022. The earlier anticipatory bail application of the petitioner was dismissed on the ground that the same was not maintainable in view of the judgment passed by the Hon'ble Supreme Court in *Manish Jain's case* (Supra). The option given in the order dated 18.02.2022 vide which the petition was dismissed on the ground that it was not maintainable, not availed by the petitioner, would not bar the filing of the present petition which is maintainable in law. Moreover, the entire matter has been resolved.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 28.09.2021 (Annexure P-4) is set aside subject to the petitioner appearing before the trial Court within a period of 15 days from today and to furnish fresh bail bonds/surety bonds to the satisfaction of the concerned trial Court and further subject to the petitioner depositing an amount of Rs.5,000/- with the High Court Lawyers' Welfare Fund.

It is made clear that in case, the petitioner does not appear before the trial Court within a period aforesaid and in case, the said amount of Rs.5000/- is not deposited by the petitioner with the High Court Lawyers' Welfare Fund, then the present petition would be deemed to have been dismissed.

06.04.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**