

In the High Court of Punjab and Haryana at Chandigarh

CRM-M No. 20954 of 2022

Date of Decision: 16.5.2022

Lubhaiya @ Laddi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. J.S.Thakur, Advocate
for the petitioner.

Ms. Bhavna Gupta, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is an accused in FIR No. 124 of 21.8.2019, registered at Police Station Division No. 5, District Jalandhar Commissionerate.

2. After the investigating officer making investigations into the petition FIR, he instituted a report under Section 173 Cr.P.C., before the learned Committal Court concerned, and, thereafter the latter proceeded to commit the present petitioner for facing trial before the learned ASJ, Jalandhar.

3. The petitioner in respect of the petition offences, became admitted to regular bail, on his application cast under Section 439 Cr.P.C. However, the admission to regular bail of the petitioner, by the learned Sessions Judge, Jalandhar, as became made through Annexure P-2, but was made subject to the conditions, as, made therein, and, which are extracted hereinafter.

“(a) that he shall attend the court in accordance with the conditions of the bonds executed”

- (b) *that he shall not leave India without the prior permission of the court;*
- (c) *that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence.*

4. Though, the petitioner engaged a defence counsel to defend him in the trial, as opened in respect of the petition FIR, but he failed to cast his appearance before the learned trial Judge on 14.3.2022, resulting in the impugned order, which becomes extracted hereinafter, becoming made upon him.

“Accused is absent without any intimation. Case called several times since morning but neither the accused nor any body else is appearing on his behalf. It is already 3.30 p.m. Even learned defence counsel was called but he failed to submit any explanation for the absence of the accused from the Court and even no application for exemption has been filed by learned defence counsel. It appears that accused has not intentionally appeared in the Court. As such, bail order of accused is cancelled. His bail bonds and surety bonds are cancelled and forfeited to the State. He be summoned through non bailable warrant of arrest for 20.4.2022. Notice under Section 446 Cr.P.C. against the surety of accused be issued for date fixed.”

5. A reading of the order impugned before this Court, reveals that the learned trial Judge concerned, had proceeded to order for cancellation and forfeiture of his personal, and, surety bonds to the State of Punjab, and, also proceeded to issue coercive processes, comprised in non-bailable warrants, being issued upon the petitioner, for his therethrough becoming produced before the learned trial Judge concerned, on 20.4.2022. It appears

that the above coercive steps, as became drawn by the learned trial Judge

concerned, against the personal, and, his estate besides qua his sureties, became anvilled, upon the factum qua no application seeking his exemption from personal appearance, being made by the petitioner, before the learned trial Judge, and, nor his making any correspondence with the counsel engaged by him, to defend him in the petition FIR.

6. Be that as it may, since the petitioner was admitted to regular bail, through an order made by the learned Sessions Judge, and, even if he was required to be abiding by the terms, and, conditions, appertaining to his causing his regular personal appearances, before the learned trial Judge concerned, unless he became validly exempted. However, both prior to the apposite order admitting the petitioner to regular bail, becoming rescinded and, also prior to the above coercive steps being ordered by the learned trial Judge concerned, both against the person, and, against the estate of the present petitioner, rather a solemn duty, became cast upon him, to do so, rather only after issuing a notice, upon the petitioner, as thereupons, alone no breach to the principle(s) of natural justice, could become caused nor the petitioner could be concluded to become condemned unheard. Since the above principle(s) of natural justice has been breached, by the learned ASJ, Jalandhar, through his making the impugned order, thereupon, the impugned order is quashed, and, set aside.

7. The non-bailable warrants, if not issued, be not issued, and, if issued, they be recalled forthwith. However, the present petitioner, unless he is validly exempted by the learned trial Judge concerned, upon his application seeking his exemption from personal appearance, rather shall ensure his making his regular appearances, before the learend trial Judge concerned, on the dates when the prosecution witnesses concerned, are to

step into the witness box.

8. The petition is disposed of.

(SURESHWAR THAKUR)
JUDGE

May 16, 2022
Gurpreet

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