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

CRM-M-22768-2022

Date of decision : 25.05.2022

Baljinder Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mandeep Singh, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is second petition filed under Section 482 of Cr.P.C. for quashing of order dated 28.01.2022 (Annexure P-8), whereby the petitioner was declared as proclaimed person in FIR No.913 dated 30.07.2018 registered under Sections 120-B, 406, 420 of the Indian Penal Code, 1860 at Police Station Jagadhri City, District Yamunanagar.

Learned counsel for the petitioner has submitted that the petitioner was granted bail vide order dated 07.05.2021 (Annexure P-2) and was released vide order dated 12.11.2021 (Annexure P-4) when the petitioner had furnished bail bonds and surety bonds. It is further submitted that the petitioner could not appear on the next four dates since the petitioner was in custody in FIR No.25 dated 13.02.2018 registered under

Section 420 of IPC at Police Station City Batala, District Gurdaspur, in which case, the petitioner was granted regular bail by the Coordinate Bench of this Court vide order dated 10.02.2022 passed in CRM-M-51139-2021. It is contended that a perusal of the said order would show that the petitioner was behind the bars since 30.07.2019 and was released only after the order dated 10.02.2022 was passed. It is further contended that in the said order, it has also been mentioned that the petitioner had been granted bail in all other cases pending against him. It is argued that the present case before the trial Court is now fixed for 11.07.2022 and the petitioner would appear on or before the said date in case, he is granted protection and for the loss/convenience caused to respondent No.2/complainant, he is also ready to pay Rs.20,000/- to him. It is further argued that the petitioner also undertakes to appear on each and every date before the trial Court unless his appearance is personally exempted by the Court.

Notice of motion to respondent No.1 only.

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 in the present case, after having been granted bail, the petitioner did not appear before the trial Court on four occasion. He has further submitted that the present case is the second case filed by the petitioner.

Learned counsel for the petitioner, in rebuttal to the abovesaid argument, has submitted that first case which was filed was withdrawn vide order dated 18.04.2022 with permission to file fresh petition after giving

complete and better particulars and thus, present petition is in effect the first petition.

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

The petitioner was granted bail vide order dated 07.05.2021. A perusal of zimni order dated 12.11.2021 would show that the petitioner was released when the petitioner had furnished bail bonds and surety bonds on 12.11.2021. A perusal of order dated 10.02.2022 passed by the Coordinate Bench of this Court in CRM-M-51139-2021 would show that the present petitioner was in custody since 30.07.2019 in FIR No.25 dated 13.02.2018 registered under Section 420 of IPC at Police Station City Batala, District Gurdaspur and was granted bail vide order dated 10.02.2022. Further perusal of the said order would show that the petitioner had been granted bail in all other cases pending against him. The argument of the learned counsel for the petitioner to the effect that the petitioner could not appear in the proceedings from 24.11.2021 to 28.01.2022, on account of the fact that the petitioner was in custody in other FIRs, prima facie seems to be genuine. The case before the trial Court is now stated to be fixed for 11.07.2022.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court on or before the said date i.e. 11.07.2022 and also to appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the order dated 28.01.2021 only to the extent

that the petitioner was declared as proclaimed person and also to the extent that warrants of attachment were issued against the present petitioner and warrants of arrest were issued to the surety of the petitioner namely Karamjeet Kaur, is set aside, subject to the petitioner appearing before the trial Court or on before 11.07.2022 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.20,000/- within the stipulated time with the trial Court, which would be released/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 respondent No.2 as no order prejudicial to his rights, is being proposed to be passed by this Court and in fact, he is compensated in terms of the abovesaid costs and issuance of notice would only further delay the matter which would cause prejudice to respondent No.2/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 respondent No.2/complainant.

It is, however, clarified that in case, the petitioner does not appear on or before 11.07.2022 before the trial Court and does not deposit the costs of Rs.20,000/-, then the present petition would be deemed to have been dismissed.

It is further clarified that the order dated 28.01.2022 to the

extent that FIR under Section 174-A of IPC has been ordered to be registered and also to the extent that proceedings have been taken up against co-accused Poonam, has not been set aside by this Court.

It would be open to the State as well as respondent No.2/complainant to move an application for vacation of the present order in case, the petitioner violates the above order or delays the proceedings before the trial Court again.

25.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No