

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-22340-2022
Date of decision : 23.05.2022

Kulwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Lakshay Bector, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of the order dated 08.11.2021 passed by the Additional Sessions Judge, Ludhiana, vide which the bail granted to the petitioner in FIR no.222 dated 02.08.2017 registered under Section 379 IPC and Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957 at Police Station Sidhwan Bet, District Ludhiana, has been cancelled and the bail bonds and surety bonds were ordered to be forfeited to the State.

Learned counsel for the petitioner has submitted that the petitioner was granted anticipatory bail vide order dated 14.09.2017 passed by the Additional Sessions Judge, Ludhiana and after grant of anticipatory bail, the petitioner was regularly appearing and appeared even on 24.02.2020 (Annexure P-3) on which date, the case was adjourned. It is further submitted that thereafter the case was repeatedly adjourned on

account of Covid pandemic and thereafter, since the petitioner was not aware of the courts resuming its functioning, thus, the petitioner could not appear on certain dates and ultimately, vide order dated 08.11.2021 (Annexure P-7) the bail of the petitioner was cancelled and the bail bonds and surety bonds were ordered to be forfeited to the State and non-bailable warrants had been issued against the petitioner. It is also submitted that now the case is fixed for hearing on 03.07.2022 and the petitioner undertakes to appear on the said date and on all the subsequent dates of hearing therefrom, unless, his presence is specifically exempted. It is pointed out that on the dates the petitioner could not appear, no witness was present.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that even after 08.11.2021 the case was adjourned for three dates and the petitioner had not appeared even on the said dates.

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

The petitioner was granted anticipatory bail on 14.09.2017. It is the case of the petitioner that the petitioner had appeared thereafter and a perusal of the order dated 24.02.2020 shows that the petitioner had appeared on the said date and the matter was adjourned. Subsequently, the matter was adjourned on account of Covid pandemic and as per the version of the petitioner, he was not aware that Court proceedings had resumed again and, the impugned order was passed on 08.11.2021. A perusal of the order dated 08.11.2021 would show that no witness had appeared on the said date. The case is now fixed for 03.07.2022 and the petitioner has undertaken to appear

on the said date and on all the subsequent dates, unless his personal presence is specifically exempted.

Keeping in view the above said facts and circumstances, the present petition is allowed and the order dated 08.11.2021 is set aside and non-bailable warrants issued against the petitioner are also set aside subject to the petitioner appearing before the trial Court on or before 03.07.2022 and also giving an undertaking that he will appear before the trial Court on every date of hearing except on the date when the personal appearance of the petitioner is specifically exempted. The same would also be subject to the petitioner depositing costs of Rs.10,000/- to the High Court Lawyers' Welfare Fund within a period of one month from today.

In case the petitioner complies with the above said conditions, the trial Court would release the petitioner on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court.

It is made clear that in case the petitioner does not deposit the above said amount and does not give undertaking within the above said period, then the present petition would be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

May 23, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No