

CRM-M-22148-2019

Suresh Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.

Mr. Rajat Gautam, DAG, Haryana.

Mr. C.S. Bakshi, Advocate for the complainant.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
08	06.01.2018	Faridabad Kotwali, District Faridabad	406, 420, 120- B IPC

1. Challenging the order of cancellation of bail and issuance of non-bailable warrants due to the default in an appearance before the trial court, the petitioner has come up before this court.

2. The background leading to the cancellation of bail and issuance of non-bailable warrants is as follows:

(Annexure P-9)

“An application is moved for cancellation of bail of accused by the complainant. Case called several time since morning, but neither the accused nor his counsel appeared. Hence, bail of accused is cancelled. Bail bonds and surety bonds are forfeited to the State. Issue NBW against the accused along with notice to his surety and identified for 20.04.2019.”

3. In paragraph 2 of the petition, the accused offers a lengthy explanation.

4. Although the petitioner appears to be lacking serious intent, it cannot be tantamount to complete disregard considering the explanation offered. Furthermore, the disruptive effect of the COVID-19 pandemic on the country's varied systems also should not be ignored. Given this background and the facts and circumstances peculiar to this case, I am satisfied by the explanation offered. The petition is allowed to the extent mentioned in this order and with the following conditions.

5. In the present case, the maximum sentence imposable for the offences mentioned in FIR does not exceed seven years. Thus, directions passed in Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273, (Para 13), apply to this petition, wherein Hon'ble Supreme Court directed all the State Governments to instruct its police officers not to arrest the accused automatically when the offence is punishable with imprisonment for a term which may be less than seven years or which may extend to seven years; whether with or without fine.

6. **There shall be a stay of the petitioner's arrest in the case mentioned above for ten days; however, if the petitioner fails to appear within this time of 10 days, then stay on arrest shall stand vacated without any further reference to this court. It is clarified that if the petitioner appears before the concerned court, then the impugned order dated 06-04-2019, Annexure P-9, issued by the concerned court against the petitioner in the matter mentioned above shall stand quashed, warrants canceled, and bonds restored. However, in case the Id. trial court so desires, it may ask the petitioner to furnish fresh bail bonds, and in such an eventuality, the petitioner shall execute a bond for attendance in the concerned court to its satisfaction.**

7. **Within ten days from today**, the petitioner shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O. of the concerned Police station. The petitioner shall always keep the phone location/GPS on the "ON" mode. Whenever the Investigating officer asks to share the location, the petitioner shall immediately do so. The petitioner shall neither clear the location history, WhatsApp chats, calls nor format the phone without permission of the concerned SHO/I.O. This condition shall continue till the completion of the trial or closure of case, whatever is earlier.

8. **Within ten days from today**, the petitioner shall deposit a sum of rupees ten thousand in 'High Court Lawyers Welfare Fund,' Account number 65018692589, SB, IFCI code SBIN0050306, Branch Code 50306, Branch Address State Bank of India, High Court Branch, Sector 1, Chandigarh. After depositing, the petitioner shall file the proof of deposit, before the concerned court and send its copy alongwith a copy of this order to the Secretary, Punjab & Haryana High Court Bar Association, either in physical or electronic mode.

9. **Given the conduct of the petitioner, coupled with the nature of allegations and the other circumstances peculiar to this case, the petitioner shall surrender all weapons, firearms, ammunition, if any, along with the arms license to the concerned authority within thirty days from today and inform the Investigator about the**

compliance. However, subject to the Indian Arms Act, 1959, the petitioner shall be entitled to renew and take it back in case of acquittal in this case.

10. Any Advocate for the petitioner and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner understands.

11. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

12. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

20.04.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.