

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

125

CRM-M-31755-2022
Date of Decision: 25.07.2022

CHAMKAUR SINGH

.....PETITIONER

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Chandan Singh Rana, Advocate
for the petitioner.

Mr. M.S.Nagra, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. Through an order made on 16.08.2018, on application No. 22 of 2018, the learned Additional Sessions Judge, Ludhiana allowed the present petitioner's application for his becoming admitted to regular bail.

2. In the above order, there was no imperative condition imposed upon the present bail petitioner, that after conclusion of the investigations, and, upon a report under Section 173 Cr.P.C., becoming instituted before the learned trial Judge concerned, he shall, unless validly exempted, and, when efficacious proceedings become drawn, shall record his personal appearance before the learned trial Judge concerned. However, after closure

of investigations into the petition FIR, and, upon filing of a report under Section 173 Cr.P.C., before the learned trial Judge concerned, and, thereafter, charges being framed against the accused concerned, and, subsequently, the summons being issued for the recording of the depositions of the PWs, yet a perusal(s) of the orders drawn on 28.09.2021, and, on 24.11.2021, besides the one drawn on 13.12.2021, moreover, of the ones drawn on 18.02.2022, reveal, that the prosecution witnesses concerned, did not cause their respective appearance(s), for the relevant purpose, before the learned trial Judge concerned.

3. In consequence, upto 18.02.2022, no efficacious proceedings became drawn upon the trial concerned. The learned counsel appearing for the present petitioner submits, that despite the accused engaging counsel for defending them, but his presence was not marked in the zimni orders concerned, by the learned trial judge concerned. Being so, and, earlier when as above stated, on the dates prior to 18.02.2022, the prosecution witnesses concerned, did not record their appearance(s), before the learned trial Judge concerned, for their depositions being recorded, and, nor, also when on all the dates falling prior to 08.04.2022, hence when the impugned order became drawn, and nor on 08.04.2022, though then too, when the trial became listed for the recording of the depositions of the prosecution witnesses, but yet in the absence of Pws, rather on all those dates, no efficacious proceedings were drawn by the learned trial Judge concerned. If on all the dates concerned, upon, occurrence of efficacious proceedings upon the trial concerned, and, as may arise from the prosecution witnesses concerned, despite recording their appearance(s) before the learned trial

Judge concerned, and, yet for want of personal appearance(s) before him of the petitioner, the learned trial Judge becoming constrained to discharge the prosecution witnesses, thereupon, may be a conclusion would arise that the absention of the accused, did preclude, the further progresses being made into the trial concerned, otherwise not.

4. If so, and when it is also stated at the bar by learned counsel for the petitioner, that despite the petitioner engaging counsel, to defend him in the trial, yet his appearance(s) not being recorded, in the zimni orders, thereupon, also, and, rather, with the learned trial Judge straightway, and, in a slipshod manner taking to draw the impugned order, wherethrough, not only he cancelled the order, made by him hence admitting the present bail petitioner to regular bail, and, also proceeded to order for the cancellation, and, forfeiture of the personal and surety bonds, besides ordered for issuance of nonailable warrants of arrest. Therefore, all the orders (supra) are obviously, deeply stained with a vice of grossest breach being caused to the principles of natural justice, as prior to the order, as, made earlier by learned Additional Sessions Judge, Ludhiana, rather admitting the petitioner to bail, rather becoming rescinded, and also, prior to the drawing of the order appertaining to the cancellation, and, forfeiture of personal and surety bonds, rather he was required to be issuing a notice to the petitioner, which he has apparently not done.

5. In consequence, there is merit in the petition, and, the impugned order dated 08.04.2022 (Annexure P-3) is quashed, and, set aside. However, the petitioner is directed to forthwith make his appearance before the learned trial Judge concerned, and, upon his making, or, causing his

appearance before the learned Judge concerned, the latter may proceed, to,
in accordance with law, make appropriate order thereons.

(SURESHWAR THAKUR)
JUDGE

25.07.2022
kavneet singh

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