

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

Sr. No.120

CRM-M-32507-2022 (O&M)

Date of decision : 13.9.2022

Kamaljit Singh

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.NS Sidhu, Advocate for the petitioner

Mr.MS Atwal, DAG, Punjab

AMAN CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 6 dated 13.1.2011, registered under Sections 406, 420 IPC at Police Station Sadar Khanna, District Khanna and order dated 30.7.2019, Annexure P4, passed by learned Judicial Magistrate, 1st Class, Khanna, whereby the petitioner has been declared as proclaimed person.

At the very outset, learned counsel for the petitioner restricts his prayer to challenge the order dated 30.7.2019, Annexure P-4 only.

Learned counsel for the petitioner submits that the FIR in question was registered against the petitioner and his father, while the petitioner was already in Italy. He appeared before the trial Court and was granted bail, but due to his work at abroad and his whole family settled there and due to the purpose of his visa, he again went abroad and was accordingly, unable to appear before the learned trial Court, which led to the passing of the impugned order dated 30.7.2019, Annexure P4. He

further submits that there was no intention of the petitioner to evade the proceedings before the trial Court, when he had gone abroad, the reason of which has been stated above. He further contends that the petitioner is ready and willing to surrender before the trial Court and apply for bail, for which he prays for grant of only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate to impose. In support of his submissions, he relies on **Surjit Singh vs. State of Punjab**, CRM-M-38277-2022, decided on 26.8.2022, **Naveen Rao vs. Central Bureau of Investigation (CBI) ACB, Chandigarh**, CRM-M-29461-2018, decided on 18.7.2018, **Dimple Kumar vs. State of Punjab** 2017(1) RCR (Crl.), 602 and '**Sonu Sharda vs. State of Punjab**' CRM-M-16648-2020 decided on 1.6.2020.

Per contra, learned counsel for the State submits that there was no cause for the petitioner to go abroad. The learned trial Court has rightly passed the order as the petitioner did not appear before the Court and evaded the proceedings.

Heard the learned counsel for the parties at considerable length.

A Coordinate Bench of this Court **Naveen Rao's case** (supra) has held thus:-

“In the present case also, the bail/surety bonds have been cancelled as the petitioner left India without prior permission of the Court. An application for exemption from personal appearance was also moved, which was dismissed. The petitioner is NRI and he went abroad without seeking any permission from the Court, which has been stated to be inadvertent as he did not go through the terms and conditions of bail but the circumstances were beyond his control. The petitioner immediately

came back to India and came to know that his bail bonds have been cancelled. There was no intention on his part to remain absent or to avoid the Court proceedings. The petitioner remained ill when he was abroad, remained there for a period of 20 days and could not come back immediately.”

Further in case of **Dimple Kumar** (supra), a Coordinate Bench has held thus:-

“2. The petitioner herein was arrested under the said FIR on 11.04.2015. Thereafter, a petition bearing CRM-M No. 15196 of 2015 was filed in this Court in which the petitioner was released on regular bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Ludhiana by an order dated 14.05.2015. Thereafter, the petitioner herein did not put in appearance before the trial Court on the date so fixed i.e. 25.10.2016 and sought exemption on the ground that he is suffering from viral fever. The Court took notice of the fact that the petitioner herein had sought similar exemptions on several occasions and came to the conclusion that the accused is habitual in seeking exemptions and direction was issued to ensure his presence failing which serious view would be taken against him. Since the petitioner did not put in appearance as directed by an order dated 12/26.09.2016 and preferred an application seeking exemption on the ground that he is suffering from viral fever, the Court came to conclusion that the ground of exemption did not seem to be genuine. Resultantly, the bail bonds of the petitioner herein were cancelled and it was ordered that he be summoned through non-bailable warrants for 15.11.2016.

3. x xx

4. In view of the fact that the petitioner is willing to furnish an undertaking, without expressing any opinion on the merits of the case, the impugned order dated 25.10.2016 is set aside. The petitioner herein is directed to approach the trial Court within a week and move an application to furnish the said undertaking. On doing so, the petitioner be enlarged on bail.”

The very purpose of issuance of summons, warrants etc. is to secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

In case one opportunity is granted to the petitioner for him to surrender and appear before the trial Court in order to join the proceedings, no prejudice shall be caused to the complainant, rather his joining the proceedings would help in expediting the trial, which is in the interest of the parties.

Adverting to the facts of the present case inasmuch as it was due to his work and family being abroad, that he had left to attend to the same, leading to the passing of the impugned order, which appears to be justified explanation of absence. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering his readiness and willingness to surrender and join the proceedings for which he is seeking only one opportunity and the absence of his not being wilful and deliberate, thus, in order to meet the ends of justice and on finding judgments referred to above being applicable to the instant case, the present deserves to be allowed.

This petition is hereby allowed. The impugned order dated 30.7.2019, Annexure P-4, is set aside, subject to payment of costs of Rs.10,000/- to be deposited with Poor Patient Welfare Fund, PGIMER, Chandigarh. The petitioner is directed to surrender before the trial Court on or before 15.11.2022 and furnish his fresh bail/ surety bonds. On so doing, the trial Court shall release him on bail by imposing heavy surety to its satisfaction. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall also surrender his passport and will not leave the country without prior

permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

15.9.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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