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

CRM-M-33834-2022

Date of decision : 02.08.2022

Nahar Singh

...Petitioner

Versus

Mandeep

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kawalpreet Singh Virk, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 12.10.2021 (Annexure P-3) passed by the Judicial Magistrate Ist Class, Jind whereby bail bonds of the petitioner have been cancelled and non-bailable warrants of arrest have been issued against the petitioner in Criminal Complaint No.COMI/48/2017 dated 27.03.2017 registered under Sections 420/467/468/471/120-B/34 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) and all other subsequent proceedings arising therefrom.

Learned counsel for the petitioner has submitted that the present case is a complaint case instituted by the complainant-respondent- Mandeep under Sections 420/467/468/471/506/120-B/34 of the IPC and in the said complaint, the main accused persons are Ishwar Singh and the

present petitioner. It is further submitted that the petitioner was granted the concession of anticipatory bail vide order dated 23.01.2018 passed by the Additional Sessions Judge, Jind and thereafter, the petitioner had been regularly appearing before the trial Court and it is on 09.09.2021 that co-accused Ishwar Singh had passed away. It is contended that in fact, it is the said Ishwar Singh who had engaged the counsel and was following the case and thus, the petitioner, who did not have the knowledge about the date of hearing in the said case i.e. 12.10.2021, could not appear on the said date and, therefore, the impugned order was passed. It is further contended that subsequent to the passing of the said order, fresh non-bailable warrants have also been issued and the case is now fixed for 04.08.2022. It is argued that now the petitioner is ready to appear before the trial Court on 04.08.2022 and also undertakes to appear on each and every date before the trial Court, unless his personal appearance is specifically exempted by the trial Court.

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

In the present case, the complaint was filed by one Mandeep under Sections 420/467/468/471/506/120-B/34 of the IPC, in which, there were two accused persons i.e. Ishwar Singh and the present petitioner. It is the case of the petitioner that he was granted the concession of anticipatory bail vide order dated 23.01.2018 passed by the Additional Sessions Judge, Jind and thereafter, the petitioner had been regularly appearing before the trial Court and it is on 09.09.2021 that co-accused of the petitioner namely Ishwar Singh had died and it is the said Ishwar Singh who was following the case as he had several disputes with the complainant and after his death, the

petitioner was not aware that the date of hearing in the present case was 12.10.2021, on account of which, the petitioner could not appear before the trial Court on the said date and accordingly, the impugned order was passed. A perusal of order dated 12.10.2021 (Annexure P-3) would show that the complainant had also not appeared on the said date and had also sought exemption from his personal appearance which was granted by the Court. The said order would also show that no prosecution witness had appeared.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court on 04.08.2022 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 impugned order dated 12.10.2021 (Annexure P-3) vide which the bail bonds of the petitioner have been cancelled and forfeited to the State and non-bailable warrants of arrest have been issued against the petitioner and notice has also been issued to the surety of the petitioner, is set aside subject to the petitioner appearing before the trial Court on 04.08.2022 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.15,000/- on or before the next date of hearing i.e. 04.08.2022 with the trial Court, which would be paid to the complainant-respondent-Mandeep 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 specifically exempted by the Court.

In this case, notice has not been issued to the complainant-respondent as issuance of notice to him would only further delay the matter and would also cause prejudice to him as he would have to entail expenses in defending the present petition and since, primary objective of issuance of non-bailable warrants is to procure the presence of the present petitioner and the same having been ensured on account of the undertaking given by counsel for the petitioner that the petitioner shall appear on 04.08.2022 before the trial Court, the purpose for which the impugned order was passed stands satisfied. Moreover, the complainant-Mandeep has also been directed to be compensated for the delay caused.

It is, however, clarified that in case, the abovesaid conditions are not complied with within the stipulated period, then the present petition would be deemed to have been dismissed.

02.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No