

CRM-M-34309-2022 (O&M)

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

CRM-M-34309-2022 (O&M)
Decided on: 04.08.2022

Gaurav Khanduja @ Gourav Khanduja ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ashit Malik, Advocate for the petitioner.

 Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
0007	18.01.2021	Sadar Tohana, Distt. Fatehabad	22(C) of NDPS Act

CRM-27730-2022

Allowed, as prayed for.

Main case

1. Challenging the order of cancellation of bail and issuance of non-bailable warrants, vide order dated 16-09-2021, passed by Ld. Additional Sessions Judge, Fatehabad, due to the default in an appearance before the trial court, the petitioner has come up before this court.
2. Ld. Counsel for the petitioner contends that the non-appearance was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioner’s control.
3. Without adjudicating the maintainability of this petition under section 482 CrPC, and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. The petition is allowed to the extent mentioned in this order and with the following conditions.
4. There shall be a stay of the petitioner's arrest in the case mentioned for ten days; however, if the petitioner fails to appear within this time, 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 16-09-2021 and all consequential orders, passed by the concerned court, against the petitioner in the

CRM-M-34309-2022 (O&M)

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. The bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not cancelled due to non-appearance or breach of conditions.

5. **Within fifteen 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.

6. **Within fifteen days from today**, the petitioner shall deposit a sum of rupees ten thousand in 'High Court Lawyers Welfare Fund,' Account number 65018692589, IFSC 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.

7. ***This order is subject to the petitioner appearing before the concerned court within fifteen days from today, and complying with the above-mentioned conditions, failing which it shall stand recalled under section 362 read with 482 CrPC, without any further reference to this court.***

8. 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.

9. *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 and subject to the conditions mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

04.08.2022
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Whether speaking/reasoned: Yes
Whether reportable: No.