

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(126)

CRM-M-35940-2022

Date of decision: - 16.08.2022.

Varinder Singh alias Fateh alias Sunny

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Hitesh Chopra, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 16.07.2022 (Annexure P-6) passed by Additional Sessions Judge, Amritsar in case FIR No.264 dated 03.06.2018, under Sections 302, 120-B, 148 and 149 IPC and Sections 25 and 27 of the Arms Act, 1959, registered at Police Station Civil Lines, District Police Commissionerate, Amritsar (Annexure P-1), whereby the bail orders of the present petitioner have been cancelled and surety bonds were forfeited to the State and warrants of arrest have been ordered to be issued against him.

Learned counsel for the petitioner has submitted that the present petitioner was granted interim bail, vide order dated 22.10.2020 (P-2) and thereafter, several offences were added and the petitioner was

granted bail in the said added sections also, vide order dated 28.10.2020 (Annexure P-3). It is further submitted that the petitioner was regularly appearing before the trial Court and has also referred to the zimni order dated 02.06.2022 (Annexure P-4) to show that the petitioner had appeared on the said date and the case was adjourned to 04.07.2022 and thereafter, the matter was adjourned from 04.07.2022 to 16.07.2022. It is contended that on 16.07.2022, on account of the seasonal viral fever, the petitioner could not appear before the trial Court and had moved an application for seeking exemption, which was dismissed and the impugned order was passed. It is further contended that on 16.07.2022, no witness was examined and thus, the trial has not been delayed. It is stated that the case is now fixed for 03.09.2022 and the petitioner undertakes to appear on the said date and also on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court. Since, the purpose of issuance of warrants of arrest is to secure the presence of the petitioner, thus, the interest of justice would be met, in case, the impugned order is set aside and the petitioner is directed to appear before the trial Court.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that the petitioner was aware about the above-said proceedings and had filed an application for exemption without any supporting medical evidence and thus, the

impugned order has rightly been passed.

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

The petitioner was granted bail, vide order dated 22.10.2020 (P-2) and thereafter, was also granted bail in the subsequently added offences vide order dated 28.10.2020 (P-3) and a perusal of the zimni order dated 02.06.2022 (P-4) would show that the petitioner had appeared on the said date and the case was adjourned to 04.07.2022 and thereafter, the matter was adjourned from 04.07.2022 to 16.07.2022. It is the case of the petitioner that on 16.07.2022, he was suffering from seasonal viral fever and had moved an application for exemption, however, the same has been rejected and the impugned order has been passed. A perusal of the impugned order dated 16.07.2022 (P-6) would show that no witness had appeared on the said date and even some of the accused persons had not been produced by the jail authorities and the production warrants of the said accused were thus issued. The case is now fixed for 03.09.2022 and the petitioner has undertaken to appear before the trial Court on the said date and also on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 16.07.2022 (P-6) is set aside, subject to the petitioner appearing before the trial Court on 03.09.2022 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.10,000/- before the trial Court and the trial Court is directed to release the same to the complainant in the present case and also subject to the petitioner giving an undertaking before the trial Court that he would appear before the trial Court on each and every date unless his personal appearance is specifically exempted by the Court.

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

August 16, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes
Whether reportable?	Yes