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

CRM-M-34819-2022

Date of decision : 08.08.2022

Sartaj Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 02.07.2022 (Annexure P-3) passed by the Court of Additional Sessions Judge, Amritsar vide which, the bail bonds and surety bonds of the petitioner were cancelled and forfeited to the State and non-bailable warrants of arrest of the petitioner have been issued due to his non-appearance in case No.SC/258/2014 dated 01.03.2014 titled as State Vs. Balwinder Singh @ Deny etc. arising out of FIR No.293 dated 08.12.2013 registered under Sections 307, 427, 148, 149 of the Indian Penal Code, 1860 and Sections 25/27 of the Arms Act, 1959 at Police Station Beas, District Amritsar Rural.

Learned counsel for the petitioner has submitted that in the

present case, FIR was initially registered on the statement of complainant namely Harmanjot Kaur against the main accused Balwinder Singh and other persons including the petitioner and the petitioner was declared innocent as the challan was not presented against the petitioner and it is thereafter that on an application moved under Section 319 of Cr.P.C. that the petitioner was summoned. It is further submitted that the petitioner had been regularly appearing before the trial Court and for the said purpose, has relied upon zimni orders from 20.01.2022 to 30.05.2022. It is contended that however, inadvertently, the petitioner instead of noting the next date i.e. 02.07.2022, had noted the date 20.07.2022 and thus, could not appear on the said date and has contended that even on the said date, no prosecution witness was present and thus, no delay has been caused to the case of prosecution. It is argued that the petitioner would appear within a period of 10 days from today before the trial Court, in case, he is granted protection and would undertake to appear on each and every date unless his appearance is specifically exempted by the Court

On the other hand, learned State Counsel has opposed the present petition and has submitted that the petitioner was aware of the said date and did not appear on 02.07.2022 and thus, impugned order had been rightly passed.

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

In the present case, the petitioner, although was initially named in the FIR but was found to be innocent during investigation as the

challan was not presented against the petitioner and it is only subsequently that on an application moved under Section 319 of Cr.P.C. that the petitioner was made as an accused. A perusal of the zimni orders from 20.01.2022 to 30.05.2022 (Annexure P-2) would show that the petitioner had been regularly appearing before the trial Court. It is the case of the petitioner that petitioner had missed one date i.e. 02.07.2022 on account of the fact that he had noted the wrong date and now the petitioner is ready to appear before the trial Court within a period of 10 days from today. A perusal of order dated 02.07.2022 (Annexure P-3) would show that no prosecution witness was present and thus, no delay has been caused to the case of prosecution on account of his non-appearance on the said date.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court within a period of 10 days from today and to also 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 02.07.2022 (Annexure P-3) is set aside subject to the petitioner appearing before the trial Court within a period of 10 days from today 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.5000/- within the stipulated time with the trial Court, which would be paid to the complainant 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.

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.

08.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No