

CRM-M-34670-2022

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

CRM-M-34670-2022

Date of decision: 05.08.2022

Daljeet Kaur Gorwara and another

...Petitioners

Versus

U.T. of Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Harneet Singh Oberoi, Advocate,
for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioners seek quashing of the order dated 05.07.2022 (Annexure P-7) passed by learned Judicial Magistrate Ist Class, Chandigarh, whereby warrants of arrest were issued against the petitioners, cancelling their bail, in case bearing FIR No.12 dated 01.02.2016, registered at Police Station Sector 3, Chandigarh, under Sections 420, 467, 468, 471 and 120-B IPC.

Learned counsel for the petitioners contends that petitioner No.1-Daljit Kaur Gorwara and petitioner No.2-Sahil Gorwara had been granted the benefit of regular bail by learned Addl. Sessions Judge, Chandigarh and by a Coordinate Bench of this Court, vide orders dated 03.03.2017 and 28.02.2018, respectively; that the petitioners had been regularly appearing before the trial Court; that however, the petitioners could not appear before the trial Court on 05.07.2022 for the reason that they had wrongly noted down the date, as 08.07.2022, instead of

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05.07.2022; that due to non-appearance of the petitioners, the bail of the petitioners had been cancelled and warrants of arrest had been issued against them; that absence of the petitioners before the trial Court was not intentional and rather was for the reason that a wrong date had been noted down, and that the petitioners are now ready to appear before the trial Court.

Notice of motion.

On the asking of this Court, Mr. Sumit Jain, APP, U.T. Chandigarh, accepts notice on behalf of the respondent-State, and submits that the trial Court has rightly issued warrants of arrest against the petitioners.

I have heard the learned counsel for the parties.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua him. The absence of the petitioners before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would be justified to protect him from being arrested.

The petitioners absented themselves from the court proceedings. They are now not required for any investigation or interrogation purposes and rather, they are only to face the trial. Therefore, no useful purpose would be served by sending the petitioners to custody.

Keeping in view the above fact, the impugned order dated 05.07.2022 (Annexure P-7) is set aside and the petitioners are directed to

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surrender before the trial Court/Duty Magistrate, within 10 days from today, subject to them depositing the costs of Rs.10,000/- each with the State Legal Services Authority, U.T. Chandigarh. On their doing so, the petitioners shall be released on anticipatory bail, subject to them furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Disposed of.

05.08.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No