

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

CRM-M-35277-2022 (O & M)

Date of decision: 23.09.2022

Amir Ali

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Tarun Singhal, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

CRM-36008-2022

Allowed as prayed for. Annexures P-5 and P-6 are taken on record, subject to all just exceptions. Registry is directed to tag the same at an appropriate place.

CRM-M-35277-2022

Through this petition, the petitioner seeks quashing of the order dated 28.04.2022 (Annexure P-3) passed by learned Addl. Sessions Judge, Jalandhar, whereby warrant of arrest was issued against the petitioner, cancelling his bail, in case bearing FIR No.96 dated 04.07.2019, registered at Police Station Nakodar Sadar, District Jalandhar, under Section 21 NDPS Act, 1985.

Learned counsel for the petitioner contends that the petitioner was indicted in the present case on the disclosure statement of the co-accused; that the petitioner had been granted the benefit of regular bail by a Coordinate Bench, vide order dated 19.05.2020 passed in CRM-M-11680-2020; that the petitioner had been regularly appearing before the trial Court; that on 28.04.2022, the petitioner absented himself from the court proceedings, following which his bail was cancelled and warrant of arrest had been issued against him; that the petitioner is working in a travel agency at Delhi and, therefore, could not appear before the trial Court on the aforesaid date; that absence of the petitioner before the trial Court was

not intentional; that the petitioner has not been declared a proclaimed offender in the present case, and that the petitioner is now ready to appear before the trial Court.

Notice of motion.

On the asking of this Court, Mr. Joginder Pal Ratra, Sr. DAG, Punjab, accepts notice on behalf of the respondent-State, and submits that the trial Court has rightly issued warrants of arrest against the petitioner.

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 petitioner 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 petitioner absented himself from the court proceedings. He is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, the impugned order dated 28.04.2022 (Annexure P-3) is set aside and the petitioner is directed to surrender before the trial Court/Duty Magistrate, on 10.10.2022, subject to him depositing the costs of Rs.15,000/- with the District Legal Services Authority, Jalandhar. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Disposed of.

23.09.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No