

124

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

CRM-M-39191-2022

Date of decision : 31.08.2022

Shantnu @ Jermany

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sushil Sheoran, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of impugned order dated 09.08.2022 (Annexure P-4) passed by the Additional Sessions Judge, Charkhi Dadri in FIR No.23 dated 06.02.2021 registered under Sections 452/302/120-B/34 of the Indian Penal Code, 1860 and Section 25 of the Arms Act, 1959 at Police Station Jhojhu Kalan, District Charkhi Dadri, whereby the bail bonds of the petitioner were forfeited and non-bailable warrants were issued against the petitioner for his non-appearance.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was granted bail vide order dated 25.07.2022 by this Court and thereafter, the case before the trial Court was fixed for

09.08.2022 and on the said date, the petitioner also had to appear before the Additional Chief Judicial Magistrate, Jhajjar in another case, which is at a distance of more than 50 km from Charkhi Dadri where the present proceedings are going on. It is further submitted that on account of the said fact, the petitioner had moved an application for exemption, in which, it had been specifically stated that the petitioner had to appear in the Court at Jhajjar but the said application for exemption had been dismissed and the impugned order was passed.

Learned counsel for the petitioner has referred to order dated 09.08.2022 (Annexure P-5) to show that the petitioner on 09.08.2022 had appeared before the Court of Additional Chief Judicial Magistrate, Jhajjar in another case. It is further submitted that in order to compensate the two witnesses who were present on 09.08.2022, the petitioner is ready to pay costs of Rs.5,000/- each i.e. total Rs.10,000/-. It is contended that the next date before the Court is 23.09.2022 and the petitioner is ready to appear before the Court of Additional Sessions Judge, Charkhi Dadri on or before 23.09.2022, in case, he is granted protection and also undertakes to thereafter appear on each and every date before the Court unless his personal appearance is specifically exempted by the trial Court.

On the other hand, learned counsel for the State has opposed the present petition and has submitted that the petitioner was well aware of the said date and thus, the impugned order had rightly been passed.

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

In the present case, the petitioner was granted bail on

25.07.2022. On 09.08.2022, the petitioner had to appear in two different Courts, one being the Court of Additional Sessions Judge, Charkhi Dadri where the proceedings in the present FIR are going on and the other being the Court of Additional Chief Judicial Magistrate, Jhajjar where another case against the present petitioner is pending. A perusal of order dated 09.08.2022 (Annexure P-5) would show that the petitioner had appeared before the Court of Additional Chief Judicial Magistrate, Jhajjar in the said proceedings and on account of the same, the petitioner had even moved an application for exemption specifically mentioning that he has to appear in the Court at Jhajjar and thus, could not appear before the Court of Additional Sessions Judge, Charkhi Dadri. The non-appearance of the petitioner on 09.08.2022 before the Additional Sessions Judge, Charkhi Dadri is thus, bona fide and not intentional. It has been stated that on 23.08.2022, the Presiding Officer was on leave and the case is now listed for 23.09.2022.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court on or before 23.09.2022 which is next date of hearing and to also appear thereafter, 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 09.08.2022 (Annexure P-4) is set aside to the extent that the bail granted to the petitioner has been cancelled and bail bonds have been forfeited to the State and non-bailable warrants were issued against the petitioner and notice under Section 446 of

Cr.P.C. has been issued to his surety, subject to the petitioner appearing before the trial Court on or before 23.09.2022 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/- on or before 23.09.2022 with the trial Court, which would be released in favour of Rambir and Akash in equal proportion i.e. Rs.5,000/- each, 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 time period, then the present petition would be deemed to have been dismissed.

31.08.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**