

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

CRM-M-40169-2022
Reserved on: 05.09.2022
Pronounced on: 09-09-2022

Lakha Singh and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ritesh Pandey, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab.

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ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
54	16.08.2017	Shri Hargobindpur, Batala, Distt. Batala	308, 452, 341, 452, 34 IPC

1. Challenging the order of cancellation of bail and issuance of non-bailable warrants, vide order dated 29-07-2022, passed by Sessions Judge, Gurdaspur, due to the default in an appearance before the trial court, the petitioners have come up before this court.

2. The nature of order this court proposes to pass, no response is required from the respondent. Ld. Counsel for the petitioners contends that the non-appearance was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioners' control.

3. The petitioner's explanation is that the accused Lakha Singh (Petitioner no. 1) is aged 83 years, and in the morning of the date fixed, he got unconscious. Doctors had to be called which led to non-appearance of the petitioners. The explanation of accused Lakha Singh is probable and there is no reason to disbelieve him but there was no valid reason for Simranjit Singh to evade the date. Without adjudicating the maintainability of this petition under section 482 CrPC, and leaving that question open; given the explanation offered by the accused Lakha Singh coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. The petition is allowed to the extent mentioned in this order and with the

following conditions.

4. There shall be a stay of the petitioners' arrest in the case mentioned **up to Sep 26, 2022**; however, if the petitioners fail to appear within this time, then stay on arrest shall stand vacated without any further reference to this court. It is clarified that if the petitioners appear before the concerned court, then the above-mentioned impugned order, passed by the concerned court, against the petitioners in the matter mentioned above shall stand quashed, warrants canceled, and bonds restored. However, in case the Id. trial court so desires, it may ask the petitioners to furnish fresh bail bonds, and in such an eventuality, the petitioners shall execute a bond for attendance in the concerned court to its satisfaction. The bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not cancelled due to non-appearance or breach of conditions.

5. By the next date, the petitioner no. 2 Simranjit Singh, shall deposit a sum of rupees ten thousand in the following account and hand over its receipt to the trial court.

"AJIT SINGH POLICE WELFARE FUND"

ACCOUNT NO. 12171450000081,
HDFC BANK, SCO 3, SECTOR 15-C, CHANDIGARH- 160015,
RTGS/NEFT IFSC: HDFC0001217,

6. ***This order is subject to the petitioners appearing before the concerned court by Sep 26, 2022, and complying with the above-mentioned conditions, failing which it shall stand recalled under section 362 read with 482 CrPC, without any further reference to this court. The petitioners are directed to attend the trial without a single default. If the accused Lakha Singh files an application for exemption and appearance through his counsel, without claiming any prejudice, then this court requests the trial court to sympathetically consider such application given the Lakha Singh being an octogenarian.***

7. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

8. *There would be no need for a certified copy of this order, and any Advocate for the Petitioners can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent and subject to the conditions mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

Sep 09, 2022
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Whether speaking/reasoned:	Yes
Whether reportable:	No.