

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

Sr.No.113+275

CRM-M-41604-2022 (O&M)

Date of Decision: 20.9.2022

Lakhwinder Singh

...Petitioner

Versus

The Guruharshai Primary Co-operative Agriculture Development Bank and
another

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Kamal Narula, Advocate for the petitioner.

Mr.KS Sidhu, Advocate for the respondent

AMAN CHAUDHARY, J.

CRM-35230-2022

For the reasons stated in the application, the same is allowed.

Annexures P-10 to P12 are taken on record subject to all just exceptions.

Main case

Present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of order dated 21.3.2022 and 2.5.2022, Annexure P-7 & P8, passed by learned Sub Divisional Judicial Magistrate, Guru Harshai, whereby his bail bonds and surety bonds were cancelled, bailable warrants were issued against the petitioner issued and also the proceedings under Section 82 Cr.P.C. were initiated against him.

Learned counsel contends that the case was petitioner had appeared before the trial Court after receipt of summons and kept regularly

appearing. Even his statement under Section 313 Cr.P.C. was recorded on 23.12.2021 and the case was adjourned to 20.1.2022. Thereafter, the case was adjourned to 10.2.2022 for defence evidence, wherein the personal appearance of petitioner was exempted upon his filing an application for it. On the adjourned date i.e. 17.2.2022, the petitioner was unable to appear, consequently on 21.3.2022, non bailable warrants were issued against him, failing to still appear, the proceedings under Section 82 Cr.P.C. Were initiated against the petitioner vide the impugned order 2.5.2022, the reason for non-appearance given by the petitioner in para 6 is that he had gone out of station to Madhya Pradesh to do some work and arrange the money to be returned to the Bank. Accordingly, he had deposited Rs.1,50,000/-, Annexure P9, with the bank on 24.6.2022 through his father, who had taken the loan so that the matter can be settled. He also submitted that he is making all efforts to arrange the remaining money to be paid to the bank. He further submits that though, he had requested his learned counsel to file application for exemption, however, the same was not filed. He submits that the petitioner never had any intention to hide himself and the absence was only for arranging the money to remove the default status of his father, for which he went to Madhya Pradesh to do labour work. He also submits that he never been involved or convicted in any case.

He, however, submits that the petitioner is ready and willing to surrender and join the proceedings, for which he seeks one opportunity. In support of his arguments learned counsel for the petitioner relies upon

judgment of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of “**Surjit Singh Vs. State of Punjab**” and CRM-M-39000-2022, titled as “**Raghav vs. State of Punjab**”, decided on 9.9.2022.

Learned counsel appearing on behalf of respondent No.1, affirms the factum of receipt of the amount.

Heard the arguments advanced by learned counsel for the parties.

The very purpose of issuance of non-bailable warrants, is to secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

In the facts and circumstances of the present case, the absence of the petitioner before the trial Court cannot be construed as a deliberate and willful absence. The explanation offered by the petitioner for his non-appearance before the trial Court seems to be justified.

In view of the facts and circumstances of this case and the judgments referred to above, the impugned orders dated 21.3.2022 and 2.5.2022, Annexure P-7 and P-8, respectively, are set aside. The petitioner is directed to surrender before the trial Court on or before 23.9.2022, the date fixed before the trial Court and furnish his fresh bail/ surety bonds. On so doing, the trial Court shall release him on bail to its satisfaction. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court.

Before parting with this order, it is made abundantly clear that

in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

20.9.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking:	Yes /No
Whether reportable:	Yes /No