

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(126)

CRM-M-41115-2022

Date of decision: - 08.09.2022

Navjeet Singh

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Mohit Sadana, Advocate,
for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

The present second petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 22.03.2022, passed by the Judicial Magistrate 1st Class, Fatehabad, vide which the bail of the petitioner has been cancelled in FIR No.383 dated 18.07.2019, under Section 223 IPC, at Police Station City Fatehabad, District Fatehabad.

Learned counsel for the petitioner has submitted that an earlier petition was filed by the petitioner, which was dismissed as withdrawn on 31.08.2022 with liberty to file a fresh petition after annexing the order vide which the petitioner has been granted bail and

also all the relevant zimni orders and the present petition has been filed thereafter. It is submitted that the petitioner was granted bail vide order dated 31.07.2019 (Annexure P-2) passed by the Chief Judicial Magistrate, Fatehabad and thereafter, the petitioner was continuously appearing, but on 22.03.2022, the petitioner could not appear on account of miscommunication between the petitioner and his counsel and accordingly, the impugned order dated 22.03.2022 was passed and on the said date, no witness was present and thus, the trial has not been delayed on the said account. It is stated that the case is now fixed for 30.09.2022 and the petitioner undertakes to appear before the trial Court on or before 30.09.2022 and also on each and every date thereafter before the trial Court, unless his personal appearance is specifically exempted by the trial Court. Since, the purpose of issuance of warrants of arrest is to secure the presence of the accused, thus, the interest of justice would be met, in case, the impugned order is set aside and the petitioner is directed to appear before the trial Court.

Notice of motion.

On advance notice, Mr. Dhruv Sihag, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that the petitioner was aware about the above-said date and his non-appearance on 22.03.2022 was intentional and the impugned order has been rightly passed.

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

The petitioner was granted the concession of bail vide order dated 31.07.2019. It is the case of the petitioner that he had been appearing regularly before the trial Court but on 22.03.2022, he could not appear on account of mis-communication between him and his counsel and accordingly, the impugned order had been passed. A perusal of the order dated 22.03.2022 would show that no witness of the prosecution was present before the Court on the said date. The case before the trial Court is now fixed for 30.09.2022. The petitioner has undertaken to appear before the trial Court on or before 30.09.2022 and also on each and every date thereafter, before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 22.03.2022 (P-4) to the extent that the bail order of the petitioner has been cancelled and his bail bonds/surety bonds have been forfeited to the State and non-bailable warrant has been issued and notice has also been issued to the surety of the petitioner, is set aside, subject to the petitioner appearing before the trial Court on or before 30.09.2022 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.5,000/- with the 'High Court Lawyers' Welfare Fund' 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 personal 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.

September 08, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No