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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42244-2022(O&M)

Date of Decision:14.09.2022

HAKUMAT SHARMA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE SANJAY VASHISTH*

Present: Mr.N.S. Kamboj, Advocate
for the petitioner.

SANJAY VASHISTH, J. (Oral)

Present petition has been filed under Section 482 Cr.P.C., to set aside the order dated 22.12.2021 and subsequent proceedings, whereby non-bailable warrant of arrest has been issued against the petitioner.

Learned counsel for the petitioner submits that he has been appearing on each and every date and he never had any intention to be away from the proceedings of the case. Petitioner refers to the order of commitment dated 05.08.2019 (Annexure P-1) order dated 16.08.2019 (Annexure P-2) and order dated 16.11.2021 (Annexure P-3), which reflects that on the said dates, petitioner was present before the Court.

On 16.11.2019 matter was adjourned for 22.12.2021 but on that date petitioner did not appear and consequently his bail was cancelled and his bail bonds/surety bonds were forfeited and non-bailable warrants were also issued against the petitioner.

Petitioner further submits that the reason of his absence from the Court has been explained in para No.3 of the petition, which reads as under:-

“That thereafter, the petitioner was continuously appearing before the Ld. Trial Court. However, on dated 22.12.2021 the petitioner could not appear before the Ld. Trial court as his aged mother was admitted in hospital due to suffering from severe fever. Hence the Ld trial court without giving any opportunity has issued non-bailable warrant of arrest against the petitioner. The copies of order dated 16.08.2019, 16.11.2021 and impugned order dated 22.12.2021 are attached as Annexure P-2, P-3 and P-4 respectively.”

In view of the aforementioned factual background, counsel for the petitioner submits that on sympathetic grounds, if one chance is granted to the petitioner for appearing and to release him on bail, petitioner would undertake to be present on each and every date fixed by the Court in future.

Notice of motion.

Mr. Jaswinder Singh Arora, DAG, Punjab accepts notice on behalf of the respondent-State and complete paperbook has already been supplied to him.

Learned State counsel while opposing the prayer of the petitioner submits that petitioner does not deserve any sympathy because of his conduct. The proceedings before the Court remains pending without any decision for a long time. Learned State counsel further submits that if the liberty prayed herein is granted, it may encourage him to repeat the same in future also.

I have heard learned counsel for the parties and perused the record.

It is noticed by this Court that on the previous dates of hearing i.e. 05.08.2019 (Annexure P-1) order dated 16.08.2019 (Annexure P-2) and order dated 16.11.2021 (Annexure P-3), petitioner was present and from the said orders it cannot be gathered that petitioner was careless or negligent in appearing before the Court as explained by the petitioner in para 3 of the petition (supra). He has expressed that he was unable to appear on that particular date because his aged mother was admitted in hospital due to severe fever, though there is no such document appended with the present petition.

Be that as it may, without going into the veracity of the explanation given by the petitioner, this Court is well conscious of the fact that paramount consideration is to secure presence of the accused on each and every date before the Court to complete the trial/proceedings at the earliest stage. If such accused persons are not allowed to avail one opportunity/chance subject to some condition, they will keep running from here to there to avoid their arrest and that ultimately would result in delaying the trial which is detrimental to both the sides. Thus, I deem it appropriate to grant one chance to the petitioner to appear before the Court subject to payment of cost before releasing him on bail.

In view of the aforementioned facts and circumstances, submissions made by the respective counsels and the observation made hereinabove, I hereby order that in case petitioner appears before the trial Court on or before 23.09.2022, subject to payment of Rs.20,000/- as costs,

to be deposited with the District Legal Services Authority, Faridkot, then purpose of securing his presence would be served and lot of exercise, time and energy can be saved. Therefore, it is directed that if petitioner on his own appears before the learned trial Court on the next date of hearing, he would be released on bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

In view of above, the present petition is allowed. However, it is made clear that the bail order would be subject to the deposit of the receipt of an amount of Rs.20,000/- to be deposited with the District Legal Services Authority, Faridkot.

Petition is disposed of accordingly.

14.09.2022
Amandeep

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No