

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

Sr.No.122

CRM-M-42898-2022

Date of Decision: 21.9.2022

Neeraj Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

AMAN CHAUDHARY, J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure for setting aside the order dated 20.7.2022, Annexure P-2, passed by learned JSC, Gurdaspur whereby his bail bonds and surety bonds were cancelled and he has been summoned through non-bailable warrants.

Learned counsel for petitioner contends that in the FIR registered against him, the petitioner had sought and was granted anticipatory bail by this Court vide order dated 15.10.2021, Annexure P-2, thereafter, the challan was submitted in the back of the petitioner and he being the resident of District Amritsar, from his birth his driving licence also being of the said District as is evident from the affidavit, Annexure P4, it is the case that no summon whatsoever was served upon him, which is pending at Gurdaspur. He further submits that the petitioner came to know

of the order dated 20.7.2022 passed by the trial Court only when the police was raiding his house. Vide the said order, the bail bonds and surety bonds of the petitioner were cancelled and forfeited to the State and he was summoned through non-bailable warrants.

It is the contention of the learned counsel that he had not submitted his bail bonds before the trial Court, as such, the said order is illegal. He further submits that his non-appearance before the trial Court is neither wilful nor deliberate and the same is only on account of the fact that he had not received the summon, issued by the trial Court. He, however, submits that the petitioner is ready and willing to join the proceedings, even if it is subject to costs. 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.

Notice of motion.

At the asking of the Court, Mr. MS Atwal, DAG, Punjab accepts notice and submits that the impugned order has been rightly passed by the learned trial Court.

In this case, notice has not been issued to the complainant as he has not been impleaded as respondent party and as no order prejudicial to the rights of the complainant, is being proposed to be passed by this Court.

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 case in hand, as stated by learned counsel for the petitioner, the summons were remain unexecuted as also the challan was presented at the back of the petitioner and he had never submitted his bail bonds before the trial Court, still the bonds were ordering to be cancelled, for reason also the order **needs** to be set aside. The explanation offered by the petitioner for his non-appearance in this case before the trial Court seems to be justified. It cannot be construed as a deliberate and willful absence.

This Court in **Major Singh vs. State of Punjab**, CRM-M-3649-2022, decided on 15.9.2022, in somewhat similar circumstances, while setting aside the order, observed thus:

“This Court while noticing the *bonafide* of the petitioner; explanation given for his absence being justified; the object to be achieved being to secure the presence of the petitioner in the proceedings; expedition of trial and its early culmination being in the interest of the parties; in order to meet the ends of justice; judgments referred to above being applicable to the instant case, is allowing this petition, though deeming it appropriate to impose certain conditions for meticulous adherence at the hands of the petitioner.

In view of the forgoing conclusion and in the peculiarity of the facts and circumstances of the case, as also held by the Coordinate Bench of this Court in the cases of **Naveen Rao** (supra) and **Dimple Kumar** (supra) and in the interest of justice, the impugned order dated 19.7.2022, Annexure P5, is hereby set aside.”

In view of the facts and circumstances of this case and the

judgments referred to above, the impugned order dated 20.7.2022, Annexure P-3, is set aside, subject to deposit of Rs.10,000/- with the Punjab and Haryana High Court Bar Association Advocates' Welfare Fund. The petitioner is directed to surrender before the trial Court on or before 27.9.2022, 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 by imposing heavy surety 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.

21.9.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking:

Yes /No

Whether reportable:

Yes /No