

CRM-M-43160-2022

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

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CRM-M-43160-2022 (O&M)

Date of Decision: September 23, 2022

BALWINDER KAUR

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Lakhwinder Singh Lakhanpal, Advocate for the petitioner.

Mr. Kamalpreet Bawa, AAG, Punjab.

AMAN CHAUDHARY, J.

CRM-36400 of 2022

This application is for placing on record Annexure P-5 and additional affidavit of the petitioner.

Application is allowed as prayed for.

Annexure P-5 and Affidavit annexed with the application are taken on record.

CRM-M-43160-2022

The present petition under Section 482 of the Cr. P. C. has been for quashing the impugned order dated 02.07.2022 (Annexure P-3), passed by learned Judge, Special Court, Sangrur whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel contends that the petitioner was arrested on 20.01.2021, whereafter she was granted regular bail by the learned trial Court vide order

dated 05.05.2021 (Annexure P-2). Thereafter challan was presented before the Court on 22.06.2022 on which date the petitioner did not appear and NBW were issued on the next date of hearing i.e. 02.07.2022, while forfeiting her bail bonds and surety to the State. Thereafter, on the next date of hearing i.e.10.08.2022 also the petitioner did not appear and NBW have been now issued for 30.09.2022 that the petitioner has filed his present petition on 14.09.2022, before the next date of hearing which shows his bona fide. Learned counsel submits that the reason for non-appearance was unintentional and not willful as he had asked his counsel appearing for him before the learned trial Court to file an application for exemption, however, it was not filed. Reference in this regard is made to Para 4 of the additional affidavit dated 22.09.2022 filed by the petitioner in this case.

He, however, submits that the petitioner is ready and willing to join the proceedings, and prays that one opportunity may be granted for the said purpose which may even be, subject to payment of 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”, CRM-M-39000-2022, titled as Raghav vs. State of Punjab, decided on 9.9.2022 **and** Major Singh vs. State of Punjab, CRM-M-3649-2022, decided on 15.9.2022.

Per contra, learned State counsel opposes the same and submits the impugned order has been rightly passed by the learned trial Court.

Heard the arguments advanced by learned counsel for the parties.

As is apparent from the impugned order, the non-bailable warrants had been issued against the petitioner on 10.08.2022 and the

present petition was filed on 14.09.2022, reflects the *bonafide* of the petitioner to join the proceedings at the earliest. The explanation offered by the petitioner for his non-appearance in this case before the trial Court seems to be justified. Moreover, 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.

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:

Conclusion:-

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 02.07.2022, Annexure P-3, set aside, subject to deposit of Rs.10,000/- with the Punjab and Haryana High Court Employees Welfare Association Fund. The petitioner is directed to surrender before the trial Court on or before 30.09.2022 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. He shall also surrender his passport and will not leave the country without prior permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

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.

September 23, 2022
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(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking:

Yes /No

Whether reportable:

Yes /No