

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(131)

CRM-M-45800-2022

Date of decision: - 30.09.2022

Gurdas Mann

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Simranjeet Singh Sarwara, Advocate, for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 27.10.2021 (Annexure P-4), passed by the Additional Chief Judicial Magistrate, Mohali, vide which the bail of the petitioner has been cancelled and forfeited to the State in FIR No.23 dated 22.02.2021, under Section 61/1/14 of the Excise Act, 1914, at Police Station Phase-11, SAS Nagar, Mohali.

Learned counsel for the petitioner has submitted that the petitioner was granted regular bail vide order dated 04.03.2021 (Annexure P-2) passed by the Chief Judicial Magistrate, SAS Nagar, Mohali and thereafter, the challan was presented on 29.09.2021 and the petitioner did not receive the notice regarding the same and thus, he could not appear before the trial Court. On 27.10.2021, the bail of the petitioner was cancelled and forfeited to the State. It is stated that perusal of the zimni order would show that on 27.10.2022, no witness of the prosecution

was present and thus, the trial has not been delayed on the said account. It is stated that the case is now fixed for 04.10.2022 and the petitioner undertakes to appear before the trial Court on or before 04.10.2022 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. Tarun Aggarwal, Sr. DAG, Punjab, 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 was required to appear before the trial Court after the challan had been presented. It is further submitted that non-appearance of the petitioner on 27.10.2021 was intentional and thus, 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 regular bail vide order dated 04.03.2021 (P-2) and thereafter, on 29.09.2021, the challan was presented and the case had been fixed for 27.10.2021. It is the case of the petitioner that he was not aware about the said date and thus, could not appear on 27.10.2021, on which date the impugned has been

passed. A perusal of the order dated 27.10.2021 (P-4) 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 04.10.2022. The petitioner has undertaken to appear before the trial Court on or before 04.10.2022 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 27.10.2021 (P-4) to the extent that the bail order of the petitioner has been cancelled and forfeited to the State, is set aside, subject to the petitioner appearing before the trial Court on or before 04.10.2022 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.7,000/- 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 30, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No