

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

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**CRM-M-45371-2022  
Decided on : 30.09.2022**

Bashir Khan

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

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

PRESENT: Mr. Ashok Kumar Sama, Advocate  
for the petitioner(s).

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**SANJAY VASHISTH, J. (Oral)**

By way of present petition filed under Section 482 Cr.P.C., petitioner is seeking quashing of order dated 05.08.2022 (Annexure P-3), passed by Ld. Additional Sessions Judge-I, Fazilka, in case FIR No. 112, dated 18.06.2015, under Sections 279, 304-A of IPC, registered at Police Station Sadar Fazilka, District Fazilka, vide which the bail granted to the petitioner is cancelled and non-bailable warrants of arrest has been issued on account of non-appearance on 05.08.2022.

Learned counsel for the petitioner submits that since the time of registration of FIR i.e. 18.06.2015, petitioner has been appearing before the trial Court till its final conclusion. Thereafter, on petitioner being convicted in the year 2017, an appeal was filed by him before the Ld. Appellate Court and during the pendency of the appeal, operation of the order of sentence was suspended while granting bail to the petitioner vide order dated 15.11.2017. He further submits that since the time of granting bail by the Ld. Appellate Court, petitioner never defaulted in appearance before the Ld. Appellate Court and in all these five years, petitioner has been regularly appearing in the proceedings of the appeal also. However, due to recording of incorrect

date of the listing of the appeal before the Ld. Appellate Court, petitioner could not appear on 05.08.2022 and consequently, his bail was cancelled. The detailed reasons have been explained in para No.12 of the present petition, which says as under:-

*“12. That petitioner is a poor person and sole bread winner of the family and resident of Rajasthan which is approximately 260 KMs from the District Court Fazilka and petitioner appeared on each and every date before the impugned order dated 05.08.2022 and the same mistaken has been taken place due to the error of writing wrong date, therefore, petitioner is requesting to quash the impugned order and seeking direction to the Ld. Appellate Court, Fazilka to allow the petitioner to furnish afresh bail bonds/surety bonds, otherwise, petitioner will suffer immense loss and irreparable injury.”*

Learned counsel for the petitioner further submits that from the fact that since 2017, petitioner never failed in his duty to appear before the Court and even during the pendency of the present appeal, except of one chance, itself sufficient to show that petitioner's absence was not because of any motive or hidden reason. Another noticable aspect is that impugned order for cancellation of bail is of 05.08.2022 and immediately, thereafter, present petition has been filed before this Court.

Notice of motion.

On asking of the Court, Mr. AS Sandhu, AAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

A copy of the complete paper book has been supplied to him by learned counsel for the petitioner.

Learned State counsel while opposing the contentions of the learned counsel for the petitioner, submits that petitioner does not deserve any sympathy because already granted concession of bail by the Ld.

Appellate Court, has been misused by him. Therefore, impugned order dated 05.08.2022 (P-3), is as per law, and should not be interfered with, and petitioner should be directed to surrender before the Ld. Appellate Court.

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

While considering the arguments addressed by learned counsel for the petitioner, this Court is of the view that petitioner is facing proceedings of investigation, and thereafter trial, since the date of registration of FIR i.e. 18.06.2015, and after being convicted by the Ld. Trial Court, was also granted bail by the Ld. Appellate Court and there is nothing mentioning in the impugned order dated 05.08.2022 (P-3) that he ever misused the concession of bail.

In such a situation and also relying upon the submissions of learned counsel for the petitioner, this Court has no reason to disbelieve that absence of the petitioner before the Ld. Appellate Court was due to any hidden motive or some other consideration. Further, approaching this Court against the impugned order dated 05.08.2022 (P-3) also says that the intent of the petitioner is also not to avoid the proceedings of the Court.

Accordingly, in the back drop of the aforementioned facts and circumstances and submissions recorded hereinabove, I am of the view that one opportunity can be granted to the petitioner to appear before the Ld. Appellate Court and then granting of bail only for the purpose of securing his presence and speeding up the proceeding of appeal, which is pending since long.

Therefore, it is directed that if petitioner on his own appears before the Ld. Appellate Court on or before 17.10.2022, he would be released on bail subject to his furnishing fresh bail bonds/surety bonds to the

satisfaction of the Ld. Appellate 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.

Needless to mention here that on compliance of all the conditions mentioned hereinabove, impugned order dated 05.08.2022 (Annexure P-3) and the subsequent orders would become inoperative *qua* the petitioner.

**(SANJAY VASHISTH)**  
**JUDGE**

**September 30, 2022**

*J.Ram*

*Whether speaking/reasoned: Yes/No*  
*Whether Reportable: Yes/No*