

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

Sr. No.123

CRM-M-47299-2022

Date of decision : 14.10.2022

Sarjeet

.....Petitioner(s)

VERSUS

State of Haryana

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.NA Khan, 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 orders dated 7.12.2021, 28.1.2022, 5.4.2022 and 7.6.2022, Annexure P-3 (Colly.), passed by learned Sessions Judge, Nuh vide which his bail bonds and surety bonds were cancelled and his presence has been ordered to be secured through non-bailable warrants in case FIR No.389 dated 4.10.2020, registered under Sections 398, 401 IPC (Section 482 IPC added later on) at Police Station Punhana, District Nuh.

Learned counsel contends that the FIR in question lodged against the petitioner, in which he has been granted regular bail by the learned trial Court vide order dated 3.11.2020, Annexure P-2. He further submits that on 7.12.2021, the petitioner could not appear before the Court, on account thereof, his bail bonds were cancelled vide order of even date. He further submits that though the case was adjourned number of times but

the petitioner being a poor person, was earning his livelihood by doing labour on daily wages basis while looking after his aged mother, suffering from old age ailments and not being fully aware of appearance on each date of hearing and also having no knowledge of engaging a counsel for defending him in the trial Court. He further submits that the absence of the petitioner is neither intentional nor willful and 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, Ms.Aditi Girdhar, AAG, Haryana accepts notice and submits that the impugned order has been rightly passed by the learned trial Court. She further submits that one more case is pending against the petitioner, which is in the State of Rajasthan.

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.

The arguments advanced by learned counsel for the parties have been heard.

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.

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 orders dated 7.12.2021, 28.1.2022, 5.4.2022 and 7.6.2022, Annexure P-3 (Colly.), are set aside, subject to deposit of Rs.10,000/- with the Punjab and Haryana High Court Employees Welfare Association. The petitioner is directed to surrender before the trial Court on or before 30.10.2022 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.

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.

14.10.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No