

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47296-2022
Date of Decision: October 14, 2022

Jaspal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Raj Kumar Arya, Advocate,
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab,
for the respondent-State.

SANJAY VASHISTH, J.

By way of present petition, petitioner seeks quashing of impugned order dated 03.10.2022 (Annexure P-1), passed by learned Additional Sessions Judge, Gurdaspur, whereby order dated 30.01.2018 (Annexure P-2), granting bail to the petitioner in case FIR No. 34, dated 12.07.2017, under Sections 302, 452, 326, 324, and 148 read with Section 149 IPC, registered at Police Station Dorangla, District Gurdaspur, stands cancelled; bail bonds and surety bonds have been ordered to be forfeited to the State; and warrants of arrest were ordered to be issued against the petitioner. It has also been ordered that notice be also issued to the surety.

Learned counsel for the petitioner submits that since the time of registration of aforementioned FIR, petitioner has been attending court proceedings regularly. Petitioner was granted regular bail also, vide

order dated 30.01.2018 (Annexure P-2), by learned trial Court and still he never kept away himself from proceedings of the court. Learned counsel further submits that on 03.10.2022, when the matter was listed for appearance of defence witness, petitioner could not come present and resultantly his bail was cancelled and warrants of arrest were issued.

Learned counsel for the petitioner argues that reason of petitioner's absence from court on 03.10.2022, has been explained in paragraph No. 3 of the present petition, which says as under:-

“3. That it is pertinent to mention here that since 30.01.2018 the petitioner continuously appeared before the Ld. Trial Court and attend the proceeding each and every date in the above said case, however unfortunately on 03.10.2022 the petitioner fell seriously ill and suffering from viral and taken medicine from Civil Hospital Gurdaspur and although inspite of the fever petitioner made number of calls to his counsel before the Ld. Trial Court for requesting him to move an application for exemption of personal appearance, somehow the counsel for the petitioner could not pick up the call of the petitioner due to his busy schedule and consequently due to absence of the petitioner his bail bond of the accused forfeited to the accused (State?) and his bail order is cancelled and further it is order to be summoned the petitioner for warrant of arrest. A true copy of Impugned Order dated 03.10.2022 passed by Ld. Session Judge Gurdaspur is annexed herewith as Annexure P-3.

In view of factual position explained in the petition, learned counsel for the petitioner submits that on account of being seriously ill, i.e. due to suffering from viral fever, petitioner could not attend court

proceedings on 03.10.2022 and by recording his default, bail was cancelled by the learned trial Court, vide impugned order dated 03.10.2022 (Annexure P-3). He further submits that had there been any malafide on the part of the petitioner, he would not have approached this Court within shortest possible time by filing present petition, which was filed on 11.10.2022, after cancellation of bail vide impugned order dated 03.10.2022.

Notice of motion.

Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab, who is present in the Court, accepts notice. Complete copy of the paper book has already been supplied to him.

While opposing contentions raised by learned counsel for the petitioner, learned State counsel submits that petitioner has misused the concession of bail, which was granted in a case of murder, therefore, he does not deserve any leniency till final decision of the trial.

After hearing both the sides and perusing the record, this Court is of the view that there is substance in the submission made by learned counsel for the petitioner that after passing of the impugned order of cancelling of bail on 03.10.2022, petitioner has approached this Court on 11.10.2022, expressing his inclination to rejoin the trial for finalisation of the case. This Court is not required to look into the explanation given in the petition that the petitioner was suffering with viral fever on the date when matter was listed for defence evidence before learned trial Court. Rather another noticeable aspect is that on 03.10.2022, defence witness,

i.e. Mr. Varun Sharma. AIG. was not available because of preoccupation to attend some conference of police officers. Therefore, in all probabilities the matter was to be further adjourned on the request of the said defence witness.

Depriving the petitioner from appearing before Court to face trial, may further cause delay in completion of trial and that will burden the Court unnecessarily. Even otherwise, paramount consideration of the Court is to secure presence of the accused and to speed up the trial. Therefore, subject to imposition of costs, I deem it appropriate to grant one opportunity to the petitioner to appear before the trial Court as also to grant him concession of bail in case he appears before the concerned Court.

Consequently, this petition is allowed. Petitioner is directed to appear on or before 29.10.2022, i.e. next date already fixed before the trial Court and furnish an undertaking that he would not repeat such default and would join Court proceedings on each and every date, except with prior permission of the court.

In the eventuality of petitioner's appearance before learned trial Court within time given and deposit of costs of Rs.10,000/- with the Member Secretary, Legal Services Authority, Gurdaspur, he would be released on bail, subject to furnishing bail/surety bonds to the satisfaction of the Court concerned.

Needless to mention here that once petitioner complies with the conditions detailed here above, impugned order dated 03.10.2022

(Annexure P-3), would become inoperative qua the petitioner.

Present petition stands disposed of in the above terms.

(SANJAY VASHISTH)
JUDGE

October 14, 2022
P Kapoor

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO