

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

Sr. No.119

CRM-M-47646-2022

Date of decision : 21.10.2022

Rohit Singh

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.KVS Ahluwalia, Advocate for the petitioner

AMAN CHAUDHARY, J.

The present petition under Section 482 Cr.P.C. has been filed for setting aside the order dated 26.7.2022, Annexure P-3, passed by learned Judicial Magistrate, 1st Class, Jalandhar whereby the petitioner was declared as proclaimed offender in case FIR No. 211 dated 28.11.2015 registered under Sections 323, 324, 325, 452, 148, 149 IPC at Police Station Basti Bawal Khel, District Jalandhar.

Learned counsel submits that the FIR had been registered against the petitioner and his family members at the hands of their neighbourers in an alleged incident that took place during festival of Holi. He submits that the petitioner had been granted anticipatory bail vide order dated 14.1.2016 passed by learned Additional Sessions Judge, Jalandhar. Thereafter, challan was presented on 17.5.2016 and the petitioner applied and was granted regular bail. He further submits that the petitioner appeared before the learned trial Court on 29.1.2020, however, during the period of

Covid-19, a dispute arose *inter se* between the family members of the petitioners with regard to the petitioner having an affair with a girl belonging to Kolkata, on account of which, he left his house and started to do his private job there and forgot about the case, which led to his absence from the Court proceedings, whereas the other members of his family continued to appear before the learned trial Court on each date of hearing, reliance has been placed on zimni orders as reproduced in para 6 of the petition. Accordingly, the proclamation proceedings were initiated against the petitioner, wherein he having been served, inspite of which still did not present himself in the Court Court, he was declared a proclaimed offender vide order dated 26.7.2022, Annexure P-3. Learned counsel further submits that the next date before the trial Court is 28.10.2022. It is his submission that the absence of the petitioner was neither intentional nor willful but for the reasons aforesaid. He further contends that the petitioner is ready and willing to surrender before the trial Court and apply for bail, for which he prays for grant of only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate to impose. To buttress his submission, he places reliance on the judgments in the cases of **Surjit Singh vs. State of Punjab**, CRM-M-38277-2022, decided on 26.8.2022, **Naveen Rao vs. Central Bureau of Investigation (CBI) ACB, Chandigarh**, CRM-M-29461-2018, decided on 18.7.2018, **Dimple Kumar vs. State of Punjab** 2017(1) RCR (Crl.), 602 and '**Sonu Sharda vs. State of Punjab**' CRM-M-16648-2020 decided on 1.6.2020.

Notice of motion.

At the asking of the Court, Mr.Manipal Singh Atwal, DAG, Punjab accepts notice and stats the learned trial Court has rightly passed the order as the petitioner did not appear before the Court and evaded the proceedings.

Heard the learned counsel for the parties.

A Coordinate Bench of this Court **Naveen Rao's case** (supra) has held thus:-

“In the present case also, the bail/surety bonds have been cancelled as the petitioner left India without prior permission of the Court. An application for exemption from personal appearance was also moved, which was dismissed. The petitioner is NRI and he went abroad without seeking any permission from the Court, which has been stated to be inadvertent as he did not go through the terms and conditions of bail but the circumstances were beyond his control. The petitioner immediately came back to India and came to know that his bail bonds have been cancelled. There was no intention on his part to remain absent or to avoid the Court proceedings. The petitioner remained ill when he was abroad, remained there for a period of 20 days and could not come back immediately.”

Further in case of **Dimple Kumar** (supra), a Coordinate Bench has held thus:-

“2. The petitioner herein was arrested under the said FIR on 11.04.2015. Thereafter, a petition bearing CRM-M No. 15196 of 2015 was filed in this Court in which the petitioner was released on regular bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Ludhiana by an order dated 14.05.2015. Thereafter, the petitioner herein did not put in appearance before the trial Court on the date so fixed i.e. 25.10.2016 and sought exemption on the ground that he is suffering from viral fever. The Court took notice of the fact that the petitioner herein had sought similar exemptions on several occasions and came to the conclusion that the accused is habitual in seeking exemptions and direction was issued to ensure his presence failing which serious view would be taken against him. Since the petitioner did not put in appearance as directed by an order dated

12/26.09.2016 and preferred an application seeking exemption on the ground that he is suffering from viral fever, the Court came to conclusion that the ground of exemption did not seem to be genuine. Resultantly, the bail bonds of the petitioner herein were cancelled and it was ordered that he be summoned through non-bailable warrants for 15.11.2016.

3. x xx

4. In view of the fact that the petitioner is willing to furnish an undertaking, without expressing any opinion on the merits of the case, the impugned order dated 25.10.2016 is set aside. The petitioner herein is directed to approach the trial Court within a week and move an application to furnish the said undertaking. On doing so, the petitioner be enlarged on bail.”

The very purpose of issuance of summons, warrants etc. 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.

In case one opportunity is granted to the petitioner for him to surrender and appear before the trial Court in order to join the proceedings, no prejudice shall be caused to the complainant, rather his joining the proceedings would help in expediting the trial, which is in the interest of the parties.

Adverting to the facts of the present case inasmuch as it was due to unavoidable circumstances, he had left the city, leading to the passing of the impugned order, which appears to be justified explanation of his absence. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering his readiness and willingness to surrender and join the proceedings for which he is seeking only one opportunity and the absence of his not being willful and deliberate, thus, in order to meet the ends of justice and on finding judgments referred to above being applicable to the instant case, the present

deserves to be allowed.

Accordingly, the present petition is hereby allowed. The impugned order dated 26.7.2022, Annexure P-3, is set aside, subject to payment of costs of Rs.5,000/- to be deposited with Punjab and Haryana High Court Bar Association Advocates' Welfare Fund. The petitioner is directed to surrender before the trial Court on or before 28.10.2022 and furnish his fresh bail/ surety bonds. On so doing, the trial Court shall release him on bail 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.

21.10.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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