

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-48019-2022
Date of decision: 17-10-2022

Anil Kumar @ Leela

.....Petitioner(s)

v.

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: - Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Virat Rana, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
5	22.1.2017	Naya Gaon, District SAS Nagar	15 NDPS Act

Seeking the quashing of order dated 11.4.2022 (Annexure P-6), cancelling the bail as well as order dated 29.09.2022 (Annexure P-10), issuing proclamation warrants, the petitioner-accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).

2. Petitioner was arraigned as an accused in the above-captioned matter. On failure to serve the petitioner through non-bailable warrants, the concerned court finally proceeded against the petitioner under section 82 of CrPC vide order dated 29.09.2022.

3. The point to which the petitioner wants to draw the attention of this court is that the absence was not willful and was due to factors beyond the petitioner’s control. Counsel for petitioner further submits that the clerk of the counsel gave him a wrong date, which is a reason for non appearance. The State could not dispute the factual matrix at this stage.

petitioner has approached this court on its own, establishing the *bona fide* at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet. Furthermore, without adjudicating the maintainability of this petition under section 482 CrPC and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. Thus, exercising the inherent powers under section 482 CrPC, this court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

5. Given the above, the petitioner has made a case on the preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance. Thus, the order of issuance of proclamation is arbitrary.

6. Consequently, the impugned order dated 29.09.2022, passed by Id. JSC, SAS Nagar, Annexure P-10, is set aside, and the non-bailable warrants issued against the petitioner in the FIR captioned above shall not be enforced for fifteen days, and in case the petitioner complies with this order, then warrants shall also stand recalled. The petitioner is directed to appear before the concerned court within fifteen days. The petitioner shall be at liberty to apply for bail before the trial court, and the concerned court shall release the accused on bail on the same date subject to furnishing bonds of its satisfaction. Suppose the petitioner fails to appear within fifteen days from today, in that case, it might be considered that if released on bail, it may not be feasible to produce the accused to face the trial, and consequently, this order shall be recalled automatically under section 362, read 482 CrPC, without further reference to this court.

7. By the next date, the petitioner shall deposit a sum of rupees ten thousand in the following account and hand over its receipt to the trial court.

“AJIT SINGH POLICE WELFARE FUND”
ACCOUNT NO. 12171450000081,
HDFC BANK, SCO 3, SECTOR 15-C, CHANDIGARH- 160015,
RTGS/NEFT IFSC: HDFC0001217,

Petition allowed subject to the compliance mentioned above.

(ANOOP CHITKARA)
JUDGE

October 17, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No