

CRM-M-47976-2022

:1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-47976-2022

Date of Decision: December 06, 2022

ARSHPREET SINGH @ KAKA @ ARSHPREET
SHARMA

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Munish Garg, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 30.08.2022 (Annexure P-2), passed by Chief Judicial Magistrate, Sangrur whereby the petitioner has been declared as proclaimed person in case FIR No.146 dated 10.05.2016 registered under Sections 379 and 427 of IPC registered at police Station City Sangrur (charges framed under Section 379, 427, 411 and 34 of IPC) and all consequential proceedings whereby learned Chief Judicial Magistrate has directed the SHO Police Station City Sangrur for registration of FIR under Section 174-A of IPC.

Learned counsel for the petitioner contends that in the FIR the petitioner was granted regular bail thereafter, charges were framed by the trial Court on 10.04.2017. It is his further submission that petitioner was regularly appearing before the trial Court till the out break of Covid-19 pandemic.

Trial Court had exempted the personal appearance of accused persons and the parties till 06.07.2021 as was informed by his counsel appearing for him before the trial Court. However on 01.10.2021, the petitioner was unable to appear before the trial Court for the reason that he was not informed about the listing of the case after the resumption of Court proceedings. Accordingly, his bail and bail bonds were cancelled on 22.12.2021 and he was declared proclaimed person on 30.08.2022 (Annexure P-2). The petitioner however, never received any bailable or non-bailable warrants and was also not informed about the aforesaid proceedings by his counsel. It is only upon having been so informed by his co-accused who he had co-incidentally met that he had been declared proclaimed person and FIR under Section 174-A IPC was ordered to be registered against him that he came to know about the same.

The petitioner has filed the present petition with a prayer to surrender before the trial Court on the ground that his absence was neither wilful nor deliberate but for the reason aforesaid as also in view of the fact that petitioner has been suffering with severe chest infection and has been undergoing treatment from various hospitals, having been diagnosed with hepatitis C. Medical report and the same has been referred to as Annexure P-3.

He, however, submits that the petitioner is ready and willing to join the proceedings, and prays that one opportunity may be granted for the petitioner to surrender before the learned trial Court, which may even be, subject to payment of costs. In support of his arguments learned counsel for the petitioner relies upon the orders of this Court in CRM-M-38277-2022

dated 26.08.2022, in the case of “Surjit Singh Vs. State of Punjab”, CRM-M-39000-2022, titled as “Raghav vs. State of Punjab”, decided on 9.9.2022 and CRM-M-36490-2022, “Major Singh vs. State of Punjab”, decided on 15.9.2022.

Notice of motion.

Mr. Manipal Singh Atwal, DAG, Punjab accepts notice on behalf of respondent-State.

Learned State counsel on the other hand opposes the petition on the ground that the order which has been passed is legal and valid and that there is no such justifiable reason forthcoming from the side of the petitioner regarding his absence.

This Court in *Major Singh vs. State of Punjab, CRM-M-36490-2022*, decided on 15.9.2022, in somewhat similar circumstances, while setting aside the order, observed thus:

Conclusion:-

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 order dated 30.08.2022, Annexure P-2, is set aside, subject to deposit of Rs.10,000/- with the Bar

Welfare Association, Sangrur. The petitioner is directed to surrender before the trial Court on or before 14.12.2022 and furnish his fresh bail/ surety bonds. On so doing, the trial Court shall release him on bail by imposing 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. He shall also surrender his passport and will not leave the country without prior permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

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.

(AMAN CHAUDHARY)
JUDGE

December 06, 2022
Rimpal

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