

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

Sr. No.120

CRM-M-48259-2022

Date of decision : 21.10.2022

Ajaib Singh

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Aminder Singh, 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 22.7.2022, Annexure P-5, passed by learned Judge, Special Court, Sangrur whereby bail bonds and surety bonds furnished by the petitioner were cancelled and he has been summoned through non-bailable warrants.

Learned counsel contends that the the petitioner's name surfaced based on disclosure statement of the co-accused, from whom non-commercial quantity of contraband was recovered. He further submits that vide order dated 14.10.2021, the petitioner was admitted to anticipatory bail by learned Additional Sessions Judge, Sangrur. Thereafter, the challan was presented on 7.6.2022, however, the petitioner was not aware of the date of the same, as such was unable to appear before the trial Court. Thereafter, as has been stated in para 6 of the petition, due to some communication gap between the petitioner and his counsel, he could not appear on the date

fixed being an illiterate and had an impression that he has to appear only when the examination of the witnesses would commence in the trial Court. Accordingly, vide order dated 22.7.2022, Annexure P-5, non-bailable warrants against the petitioner were issued for 5.9.2022. Thereafter, he filed an application under Section 438 Cr.P.C. for grant of anticipatory bail, which was dismissed by learned Additional Sessions Judge, Sangrur vide order dated 15.9.2022, being not maintainable. It is the contention of the learned counsel that non-appearance of the petitioner before the trial Court is neither willful nor deliberate and the same is for the reasons as aforestated. 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, Mr.Manipal Singh Atwal, DAG, Punjab accepts notice and submits that the impugned order has been rightly passed by the learned trial Court.

Heard the arguments advanced by learned counsel for the parties.

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.

In the case in hand, 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 order dated 22.7.2022, Annexure P-5, is set aside, subject to deposit of Rs.5,000/- with the Punjab and Haryana High Court Employees Welfare Association. The petitioner is directed to surrender before the trial Court on or before 28.10.2022, the date fixed before the trial Court 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