

128 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 48342 of 2022
Date of Decision:18.10.2022

Harpal Singh @ BabbuPetitioner

Vs.

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Hitesh Chopra, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
88	26.12.2019	Qadian, District Gurdaspur	392, 379-B, 201, 34 IPC

Seeking the quashing of order Annexure P-4, the 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 appear before the trial Court on 28.09.2022, trial Court proceeded further and issued non-bailable warrant against the petitioner.

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. The State could not dispute the factual matrix at this stage.

4. The primary object of service is to secure the accused's presence in trial. The petitioner has approached this court on its own, establishing the bonafide 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 the absence was not willful.

6. Consequently, the impugned order of dated 28.09.2022, passed by Id. ASJ, Gurdaspur, Annexure P-4, 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-petitioner 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

18.10.2022
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Whether speaking/reasoned: Yes
Whether reportable: No.