

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

**CRM-M-49205-2022(O&M)
Date of Decision :21.10.2022**

Sudagar Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE SANJAY VASHISTH

Present:- Mr. Munish Raj Chaudhary, Advocate
for the petitioner.

Mr. J. S. Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

By way of present petition, petitioner seeks quashing of order dated 08.04.2022 (Annexure P-3) passed by the Court of Chief Judicial Magistrate, Barnala, whereby bail of the petitioner is cancelled and bail bonds are forfeited to the State, due to non appearance of the petitioner on the date fixed before the trial Court, in case FIR No. 190 dated 19.05.2018, under Sections 420, 467, 468, 471, 120-B and 201 IPC, registered at Police Station City Barnala, District Barnala.

Learned counsel for the petitioner submits that after getting the concession of bail, petitioner was appearing before the trial Court, regularly. He further submits that on account of suffering from liver ailment, petitioner was admitted in Civil Hospital, Barnala on 30.03.2022 and was discharged on 11.04.2022.

In support of said contention, counsel for the petitioner refers to admission and discharge slip of Civil Hospital, Barnala (Anenxure P-2). Counsel submits that after knowing the fact that his bail has been cancelled and order of non-bailable warrants has been passed, without much delay, petitioner approached the Court of Sessions by way of an application under Section 438 Cr.P.C. seeking anticipatory bail, but the same was dismissed vide order dated 20.06.2022. Counsel further prays that petitioner is not a habitual offender, for the offences as projected in the case against him. If one chance for appearance is given, subject to the payment of costs, he is ready to join the proceedings again before the trial Court.

Notice of motion.

On asking of the Court, Mr. J.S. Arora, DAG, Punjab, to whom advance copy of paper book already stands supplied, accepts notice on behalf of respondent-State. He opposes the request of the petitioner by submitting that petitioner does not deserve any sympathy because he has already violated the terms and conditions of the bail order and thus misused the concession granted, therefore, no leniency should be shown by granting him any more chance.

Heard learned counsel for petitioner and respondent-State.

In view of the medical certificate issued by Civil Hospital Barnala, attached with the present petition as Annexure P-2, prima facie there, nothing appears to be in doubt about petitioner being hospitalized on 30.03.2022 and was discharged on 11.04.2022. During this period, on 8.04.2022 because of non-appearance, bail of the petitioner was cancelled and non-bailable warrants were issued against him.

Without going much in detail regarding veracity of the said certificate, this Court also finds that at first instance, petitioner has already expressed his willingness to re-join the proceedings of the Court by approaching the Court of Sessions by way of an application for seeking concession of anticipatory bail which, of course, was not granted.

Now also, during the course of hearing, counsel for the petitioner has already submitted that petitioner be given one chance to join the proceedings and to submit an undertaking that he would not repeat such default and would join Court proceedings on each and every date, except with prior permission of the court.

Undoubtedly, petitioner does not deserve any leniency, but same would not serve purpose of either side as already matter is pending before the Court without any proceeding. Otherwise also, paramount consideration of the Court is to secure presence of the accused on each and every date, so that trial is completed at the earliest.

In view of the circumstances discussed here-in-above, I am of the considered opinion that subject to the payment of some cost, petitioner could be granted one opportunity to appear before the Court and on his appearance, he be released on bail also.

Accordingly, present petition is **allowed**. Petitioner is directed to appear before the learned trial Court on or before 01.11.2022 and furnish an undertaking that he would not repeat such default and would join Court proceedings on each and every date, except with prior permission of the court.

Therefore, it is further ordered that in case petitioner appears before the learned trial Court within time given, he would be released on

bail, subject to furnishing bail/surety bonds to the satisfaction of the Court concerned.

However, this order shall be subject to payment of an amount of Rs.5,000/- as costs, to be deposited with the Member Secretary, District Legal Services Authority, Barnala.

Needless to mention here that once petitioner complies with the conditions detailed here-in-above, impugned order dated 08.04.2022 (Annexure P-3), passed by learned Chief Judicial Magistrate, Barnala, would become inoperative qua petitioner.

Disposed of.

21.10.2022
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(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No