

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

Sr. No.121

CRM-M-49777-2022

Date of decision : 29.10.2022

Amritpal Singh

.....Petitioner(s)

VERSUS

State of Punjab

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Yashpal Thakur, Advocate for the petitioner

AMAN CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 13.7.2022, Annexure P-1, passed by learned trial Court vide which non-bailable warrants of arrest have been issued against the petitioner in case FIR No.134 dated 11.12.2019, registered under Sections 21-25-29/61/85 of NDPS Act at Police Station STF, Phase IV, SAS Nagar, Mohali.

Learned counsel, *inter alia*, contends that in the FIR lodged against the petitioner, he was arrested on 11.12.2019 and thereafter, was granted the concession of regular bail by learned Judge, Special Court, SAS Nagar, Mohali vide order dated 5.2.2020, Annexure P-2. He further submits that after the charges were framed on 6.8.2021, Annexure P-3, the petitioner had been regularly appearing before the trial Court except on 13.7.2022, on account of the fact that trial Court counsel apprised the next date of hearing to the petitioner as 13.8.2022 instead of 13.7.2022, leading to passing of the impugned order dated 13.7.2022, Annexure P-1, whereby bail bonds stand cancelled and forfeited to the State and he was summoned through non-bailable warrants on 18.11.2022. He further would submit that the absence of the petitioner before the trial Court was neither intentional nor deliberate, however, was for the reasons aforesaid. He submits that the petitioner is ready and willing to join the proceedings, for which he prays

for grant of only one opportunity, which may even be subject to imposition of costs or any other conditions, which this Court may deem appropriate to impose. In support of his submissions, he relies on **Surjit Singh vs. State of Punjab**, CRM-M-38277-2022, decided on 26.8.2022, **Naveen Rao vs. Central Bureau of Investigation (CBI) ACB, Chandigarh**, CRM-M-29461-2018, decided on 18.7.2018, **Dimple Kumar vs. State of Punjab** 2017(1) RCR (Crl.), 602 and '**Sonu Sharda vs. State of Punjab**' CRM-M-16648-2020 decided on 1.6.2020.

Notice of motion.

At the asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab accepts notice on behalf of the respondent-State. He submits that the order passed by the trial Court being well reasoned, the present petition deserves to be dismissed.

Heard the learned counsel for the parties.

A Coordinate Bench of this Court **Naveen Rao's case** (supra) has held thus:-

“In the present case also, the bail/surety bonds have been cancelled as the petitioner left India without prior permission of the Court. An application for exemption from personal appearance was also moved, which was dismissed. The petitioner is NRI and he went abroad without seeking any permission from the Court, which has been stated to be inadvertent as he did not go through the terms and conditions of bail but the circumstances were beyond his control. The petitioner immediately came back to India and came to know that his bail bonds have been cancelled. There was no intention on his part to remain absent or to avoid the Court proceedings. The petitioner remained ill when he was abroad, remained there for a period of 20 days and could not come back immediately.”

Further in case of **Dimple Kumar** (supra), a Coordinate Bench has held thus:-

“2. The petitioner herein was arrested under the said FIR on 11.04.2015. Thereafter, a petition bearing CRM-M No. 15196 of 2015 was filed in this Court in which the petitioner was released on regular bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Ludhiana by an order dated 14.05.2015. Thereafter, the

petitioner herein did not put in appearance before the trial Court on the date so fixed i.e. 25.10.2016 and sought exemption on the ground that he is suffering from viral fever. The Court took notice of the fact that the petitioner herein had sought similar exemptions on several occasions and came to the conclusion that the accused is habitual in seeking exemptions and direction was issued to ensure his presence failing which serious view would be taken against him. Since the petitioner did not put in appearance as directed by an order dated 12/26.09.2016 and preferred an application seeking exemption on the ground that he is suffering from viral fever, the Court came to conclusion that the ground of exemption did not seem to be genuine. Resultantly, the bail bonds of the petitioner herein were cancelled and it was ordered that he be summoned through non-bailable warrants for 15.11.2016.

3. x xx

4. In view of the fact that the petitioner is willing to furnish an undertaking, without expressing any opinion on the merits of the case, the impugned order dated 25.10.2016 is set aside. The petitioner herein is directed to approach the trial Court within a week and move an application to furnish the said undertaking. On doing so, the petitioner be enlarged on bail.”

The very purpose of issuance of summons, warrants etc. 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.

The order whereby the warrants of arrest against the petitioner has been issued on 13.7.2022 for 18.11.2022, whereas the present petition has been filed on 21.10.2022, which shows the *bona fide* of the petitioner to appear and join the proceedings before the trial Court.

Adverting to the facts of the present case inasmuch as it was due to inadvertently noting the wrong date, the petitioner could not appear before the trial Court, leading to the passing of the impugned order, which appears to be justified explanation of absence. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner being not willful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the

proceedings would help expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present deserves to be allowed.

This petition is hereby allowed. The impugned order dated 13.7.2022, Annexure P-1 , is set aside, subject to payment of costs of Rs.5,000/- to be deposited with the Punjab & Haryana High Court Bar Clerk's Association. The petitioner is directed to surrender before the trial Court on or before 10.11.2022 and furnish his fresh bail/ surety bonds. On so doing, the trial Court shall release him on bail by imposing heavy 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.

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.

29.10.2022
gsv

(AMAN CHAUDHARY)
JUDGE

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