

CRM-M-50595 of 2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-50595 of 2022

Date of Decision: November 11, 2022

KARTAR SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Karandeep S. Sidhu, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

The present petition under Section 482 of the Cr.P.C. has been for quashing the impugned orders dated 07.09.2022 (Annexure P-4) and 17.09.2022 (Annexure P-5), passed by learned Judge, Special Court, Faridkot, whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel for the petitioner submits that FIR No.112 was registered against the petitioner on 24.07.2021. Thereafter, petitioner was granted regular bail vide order dated 31.08.2021, Annexure P-2. The case was listed on 07.09.2022, however, the petitioner could not appear on the said date on account of he having taken his customers on Vaishno Devi Yatra as he is owner-cum-driver of taxi. It is the submission of learned counsel that on the first very date instead of issuing bailable and non-bailable warrants, straightway his bail was cancelled, bail bonds furnished by him were forfeited in favour of State, vide order dated 07.09.2022, Annexure P-4. The trial Court vide order dated 17.09.2022, Annexure P-5,

had issued warrants of proclamation for awaiting report on 01.11.2022.

The absence of the petitioner was neither intentional nor wilful but was for the reason aforesaid.

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. 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”, 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 opposes the same and submits the impugned order has been rightly passed by the learned trial Court.

Heard.

A perusal of the impugned orders Annexure P-4 and P-5 reveal that warrants were issued for 01.11.2022, whereas the present petition had been filed on 29.10.2022, which shows the bona fide of the petitioner to join the proceedings.

The explanation offered by the petitioner for his non-appearance in this case before the trial Court seems to be justified. Moreover, the very purpose of issuance of non-bailable warrants, is to

compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

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 orders dated 07.09.2022 (Annexure P-4) and 17.09.2022 (Annexure P-5), are set aside. The petitioner is directed to surrender before the trial Court on or before 24.11.2022 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.

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.

November 11, 2022
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(AMAN CHAUDHARY)
JUDGE

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