

CRM-M-50852 of 2022 :1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

235

CRM-M-50852 of 2022

Date of Decision: November 11, 2022

Sunil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Viren Jain, Advocate and
Ms. Alisha Soni, Advocate
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana.

AMAN CHAUDHARY, J.

Present petition has been filed under Section 482 Cr.P.C. for quashing/setting aside the impugned order dated 05.08.2022 (Annexure P-4) whereby bail granted to the petitioner vide order dated 28.08.2018 (Annexure P-2) has been cancelled and arrest warrants have been issued against the petitioner by the Court of Additional Sessions Judge, Jind in Sessions trial case titled 'State of Haryana Vs. Rajesh and others' bearing No.SC/214/2018 (Annexure P-1) registered at Police Station, Jind Sadar under Sections 25, 54 and 59 of the Arms Act and Sections 148, 149, 307 and 120-B of the IPC.

Learned counsel contends that FIR was registered against the petitioner on 16.04.2018, Annexure P-1 wherein it is his submission that the petitioner was falsely implicated. He was granted regular bail vide order dated 28.08.2018, Annexure P-2 by the trial Court. Challan was presented on 24.08.2018 and the petitioner had been attending each and every date of

hearing. Charges were also framed on 22.04.2019, however, despite grant of twenty opportunities the prosecution evidence still remains un-concluded. On 19.07.2022, the petitioner appeared before the trial Court, however, since no prosecution witness was present on that day, the case was adjourned to 05.08.2022. He submits that however on account of miscommunication between the petitioner and the clerk of his counsel, the petitioner noted a wrong date as 05.10.2022 instead of 05.08.2022 and on account of the aforesaid, the petitioner could not appear on 05.08.2022, on which date, his bail was cancelled and arrest warrants were issued along with notice to his surety and identifier. The petitioner became aware of the aforesaid order only on 04.10.2022 when he contacted the office of his counsel. Anticipatory bail application filed by him before this Court being not maintainable was withdrawn on 17.10.2022, Annexure P-5. He submits that the absence of the petitioner was neither intentional nor deliberate but for reasons 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 said purpose which may even be, subject to payment of 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”, CRM-M-39000-2022, titled as Raghav vs. State of Punjab, decided on 9.9.2022 and Major Singh vs. State of Punjab, CRM-M-3649-2022, decided on 15.9.2022.

Per contra, learned State counsel opposes the same and submits the impugned order has been rightly passed by the learned trial Court.

Heard the arguments advanced by learned counsel for the parties.

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 order dated 05.08.2022, Annexure P-4, is set aside, subject to deposit of Rs.5,000/- with the Poor Patients Welfare Fund, PGIMER, Chandigarh, <https://pgimer.edu.in/>. The petitioner is directed to surrender before the trial Court on or before 21.11.2022 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. He shall also surrender his passport and will not leave the country without prior permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

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:
Whether reportable:

Yes/No
Yes/No