

CRM-M-50823 of 2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

234

CRM-M-50823 of 2022

Date of Decision: November 11, 2022

Abhishek @ Chirkut

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

This is the second petition filed under Section 482 Cr.P.C for quashing of the impugned order dated 30.08.2022 (Annexure P-3) passed in FIR No.03 dated 09.01.2022 under Sections 21/61 of the NDPS Act registered at Police Station Daba, District Ludhiana, whereby bail bonds and surety bonds of the petitioner were cancelled and forfeited to the State and non-bailable warrants have been issued against the petitioner as the petitioner could not appear before the learned trial Court on 30.08.2022.

Learned counsel for the petitioner submits that the FIR had been registered against the petitioner on 09.01.2022 (Annexure P-1) and the petitioner was arrested on the same day and was granted regular bail vide order dated 01.02.2022 (Annexure P-2) by the trial Court. He further submits that challan was presented in the said case on 01.06.2022 and thereafter, the case was adjourned for 19.07.2022 on which date an application for exemption of personal appearance was filed on behalf of the

petitioner, which was allowed and the case was adjourned to 30.08.2022 for framing of charge. It is further submitted that on the adjourned date, the petitioner was unable to appear on account of having inadvertently noting a wrong date as 31.08.2022 instead of 30.08.2022. Due to his aforesaid absence, his bail bonds and surety bonds were cancelled and forfeited to the State while issuing non-bailable warrants of arrest of the petitioner vide order dated 30.08.2022, Annexure P-3. It is further stated that non-appearance of the petitioner on the aforesaid date was neither intentional nor deliberate and was on account of the reasons aforesaid.

Learned counsel submits that there was another FIR which had been registered against the petitioner, regarding which the proceedings before the trial Court were also pending for 30.08.2022, wherein the petitioner put in appearance. To fortify the aforesaid submission, he relies on order dated 30.08.2022, Annexure P-4 wherein his presence has been marked. It is his further submission that had the petitioner noted the correct date in the present case, he would have also appeared in it as well, once he was already in the Court premises and appearing before another Court in a matter.

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 30.08.2022, Annexure P-3, is set aside, subject to deposit of Rs.5,000/- with the “Social

Welfare Fund Committee of Bar Clerks Association Punjab and Haryana High Court, Chandigarh”. 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 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. 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:	Yes/No
Whether reportable:	Yes/No