

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

112

CRM-M No. 51377 of 2022
Date of Decision: 09.11.2022

Prem Lal Middha and othersPetitioners

Vs.

State of U.T. ChandigarhRespondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Prateek Gupta, Advocate for the petitioners.

Ms. Simsi Dhir Malhotra, APP, U.T., Chandigarh.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
523	11.09.2013	Sector 34, South District Chandigarh	420, 120-B IPC

Seeking the quashing of issuance of warrant of arrest and proclamation orders dated 07.10.2022 (Annexure P-6) and 20.10.2022 (Annexure P-7), the petitioners/accused have come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C).

2. Petitioners were arraigned as an accused in the above-captioned matter. Due to non-appearance of petitioners on date fixed i.e. 07.10.2022, trial Court proceed to issue non-bailable warrants and finally proceeded against the petitioners by issuing proclamation under section 82 of Cr.P.C.

3. The point to which the petitioners wants to draw the attention of this court is that the absence was not willful and was due to factors beyond the petitioner’s control. The State could not dispute the factual matrix at this stage.

4. The primary object of service is to secure the accused's presence in trial. The petitioners have approached this court on its own, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet. Furthermore, without adjudicating the maintainability of this petition under section 482 CrPC and leaving that question open; given the explanation offered by the accused coupled with

the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. Thus, exercising the inherent powers under section 482 CrPC, this court deems it appropriate to grant the following limited relief to the petitioners, subject to compliance with the conditions mentioned in this order.

5. Given the above, the petitioners have made out a case that the absence was not wilful. Thus, the order is arbitrary and did not afford reasonable opportunity as mandated under Section 82 of CrPC

6. Consequently, the impugned orders of issuance of warrant of arrest and proclamation order passed by Id. Judicial Magistrate Ist Class, Chandigarh, Annexures P-6 & P-7 are set aside, and the non-bailable warrants issued against the petitioners in the FIR captioned above shall not be enforced for fifteen days, and in case the petitioners complies with this order, then warrants shall also stand recalled. The petitioners are directed to appear before the concerned court within fifteen days. The petitioners shall be at liberty to apply for bail before the trial court, and the concerned court shall release the accused on bail on the same date subject to furnishing bonds of its satisfaction. Suppose the petitioners fail to appear within fifteen days from today, in that case, it might be considered that if released on bail, it may not be feasible to produce the accused to face the trial, and consequently, this order shall be recalled automatically under section 362, read 482 CrPC, without further reference to this court.

7. By the next date before the trial Court, the petitioners shall deposit a sum of rupees ten thousand in the following account and hand over its receipt to the trial court.

“Account Name: Chandigarh Police Welfare Society

Account Number: 50100078654145

Account Type: Saving

Bank Name: HDFC Bank, Sector-22, Chandigarh

Branch Address: SCO No. 1070-71, Sec-22/B,

Chandigarh

IFSC Code: 0000597

Branch Code: 0597”

Petition allowed subject to the compliance mentioned above.

(ANOOP CHITKARA)
JUDGE

09.11.2022
Jyoti-II

Whether speaking/reasoned: Yes

Whether reportable: No.