

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

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**CRM-M-54813-2022 (O&M)
Date of decision: 29.11.2022**

Riyajudeen @ Raju

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Anil Kumar Sharma, Advocate for the petitioner.

Mr. Gagandeep Singh Chhina, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Through the present petition, the petitioner prays for quashing of the orders dated 16.08.2022, 20.09.2022 and 04.11.2022 passed by the learned Additional Sessions Judge, Rewari, in SC-277-2019, in case bearing FIR No. 141 dated 13.05.2019, registered under Sections 341, 365, 379-B, 420 IPC read with Section 34 IPC, at Police Station Kasola, District Rewari.

Learned counsel for the petitioner contends that the petitioner is a truck Driver; that the petitioner was released on bail in the aforementioned FIR and thereafter, he has been regularly appearing before the trial Court, but somehow he could not appear before it on 16.08.2022, as he was in judicial custody in Uttar Pradesh in case bearing FIR No.366 of 2022, registered under Sections 411, 413, 414, 34 IPC at P.S. Kotwali Nagar, District Bulandshahar and the petitioner was granted bail vide order dated 07.09.2022 passed by Hon'ble Allahabad High Court and he was released on

bail vide order dated 17.09.2022 passed by the learned Chief Judicial Magistrate, Bulandshahar, on presentation of personal bail bonds of Rs. 2 lakh and two equal sureties as per the conditions imposed by the Hon'ble Allahabad High Court; that due to his non-appearance on 16.08.2022, bail of the petitioner was cancelled and his bail bonds and surety bonds were forfeited to the State and non-bailable warrants were issued against him for 20.09.2022 and thereafter, on 20.09.2022 publication of proclamation against the petitioner was issued for 04.11.2022; that absence of the petitioner was not intentional and that the petitioner is now ready to appear before the trial Court.

Notice of motion.

On the asking of this Court, learned State counsel, accepts notice and opposes the submissions made by the learned counsel for the petitioner.

I have heard the learned counsel for the parties.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

The petitioner absented himself from the court proceedings on 16.08.2022 and the same was not intentional. He is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioner to surrender before the trial Court/Duty Magistrate, on 09.12.2022, subject to him depositing the costs of Rs.20,000/- with the District Legal Services Authority, Rewari. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

29.11.2022

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

(HARNARESH SINGH GILL)

JUDGE

Yes/No
Yes/No