

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(118)

CRM-M-53235-2022

Date of decision: - 18.11.2022

Guddu

....Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rahul Sharma, Advocate,
for the petitioner.

Mr. Amit Kumar Goyal, APP for U.T., Chandigarh.

VIKAS BAHL, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 03.08.2022 (Annexure P-3), whereby the Judicial Magistrate 1st Class, Chandigarh, has issued non-bailable warrants against the petitioner in FIR No.349 dated 22.11.2016, under Sections 147, 149, 332, 353, 427 and 448 IPC and Section 3 of the Prevention of Damage to Public Property Act, 1984, registered at Police Station Sector 39, Chandigarh.

Learned counsel for the petitioner has submitted that the petitioner was granted the concession of regular bail vide order dated 01.12.2016 and thereafter, he had been regularly appearing before the trial Court and has referred to the zimni orders (Annexure P-4) in this

regard. It is submitted that since the petitioner was suffering from gastroenteritis, thus, he requested his counsel to file an exemption application, but the same was not filed by the counsel, on account of which the impugned order has been passed. It is further submitted that on the said date, no witness was present and thus, the trial has not been delayed on the said account and now the case before the trial Court is fixed for 19.01.2023. It is also submitted that the petitioner undertakes to appear before the trial Court within a period of two weeks from today and also on each and every date thereafter before the trial Court, unless his personal appearance is specifically exempted by the trial Court. Since, the purpose of issuance of warrants of arrest is to secure the presence of the accused, thus, the interest of justice would be met, in case, the impugned order is set aside and the petitioner is directed to appear before the trial Court.

Notice of motion.

On advance notice, Mr. Amit Kumar Goyal, Additional P.P., U.T., Chandigarh, appears and accepts notice on behalf of the respondent and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that the petitioner was aware about the above-said date and his non-appearance on 03.08.2022 was intentional and the impugned order has been rightly passed.

This Court has heard the learned counsel for the parties and has perused the paper-book.

The petitioner was granted the concession of regular bail

vide order dated 01.12.2016 and thereafter, he had been appearing regularly before the trial Court and as per the medical certificate dated 02.08.2022, the petitioner was suffering from acute gastroenteritis, thus, he could not appear on 03.08.2022, on account of which, the impugned order had been passed. A perusal of the order dated 03.08.2022 would show that no witness of the prosecution was present before the Court on the said date. The petitioner has undertaken to appear before the trial Court within a period of two weeks from today and also on each and every date thereafter, before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 03.08.2022 (P-3) to the extent that the bail order of the present petitioner Guddu has been cancelled and his bail bonds/surety bonds have been forfeited to the State and non-bailable warrants have been issued and notice has also been issued to the surety of the petitioner Guddu, is set aside, subject to the petitioner appearing before the trial Court within a period of two weeks from today and on his appearance, the trial Court is directed to release the petitioner Guddu on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to the petitioner depositing an amount of Rs.5,000/- with the 'Bar Clerks Association, Punjab and Haryana High Court, Chandigarh' and would also be subject to the petitioner Guddu giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his personal appearance is specifically exempted by the Court.

It is made clear that the impugned order has only been set aside qua petitioner Guddu and not other accused, namely, Upinder and Ranju Devi.

It is, however, clarified that in case, the abovesaid conditions are not complied with within the stipulated time period, then the present petition would be deemed to have been dismissed.

November 18, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No