

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

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**CRM-M-54869-2022 (O&M)
Date of decision: 29.11.2022**

Tarlok Singh and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. R.D. Rattewal, Advocate for the petitioners.

Mr. Harkanwar Jeet Singh, AAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through the present petition, the petitioners pray for quashing of the order dated 28.09.2022 passed by the learned Sub-Divisional Judicial Magistrate, Balachaur, in case bearing FIR No. 142 dated 16.12.2020, registered under Sections 406, 420 IPC, (Section 13 of the Punjab Travel Professional Act and Section 24 of the Immigration Act, added later on), at Police Station Kathgarh, District SBS Nagar.

Learned counsel for the petitioners contends that the petitioners were released on bail in the aforementioned FIR vide order dated 15.09.2021 and thereafter, they have been regularly appearing before the trial Court, but somehow they could not appear before it on 03.12.2021, they were summoned by way of issuance of non-bailable warrants and the case was adjourned for 15.02.2022; that while declaring the petitioners proclaimed offender, the provisions of Section 82 Cr.P.C. have not been complied with;

that the petitioners were neither served personally nor through their family members by ASI Harjeet Singh and as per the statement of Balbir Chand, ex-Panch of the village, the petitioners are not residing in their village since long; that even as per ASI Harjeet Singh, who was deputed for execution of proclamation, the house of the petitioners was locked and the proclamation was pasted on the house of the accused and one copy was affixed at the main chowk; that the petitioners were under the impression that the matter has been compromised and their presence before the learned trial Court is not necessary and that the petitioners are ready to appear before the learned 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 petitioners 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 petitioners absented themselves from the Court proceedings on 03.12.2021 and the same was not intentional. They are now not required for any investigation or interrogation purposes and rather, they only to face the trial. Therefore, no useful purpose would be served by sending the petitioners 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 petitioners to surrender before the trial Court/Duty Magistrate, within 15 days from today, subject to them depositing the costs of Rs.20,000/- with the District Legal Services Authority, SBS Nagar. On their doing so, the petitioners shall be released on anticipatory bail, subject to them furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

29.11.2022

(HARNARESH SINGH GILL)

JUDGE

Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No