

CRM-M-55286 of 2022

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

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CRM-M-55286 of 2022

Date of Decision: November 30, 2022

Varinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Atul Jain, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

The present petition under Section 482 of the Cr.P.C. has been for quashing the impugned order dated 04.08.2022 (Annexure P-4) and order dated 19.09.2022 (Annexure P-5), passed by Judicial Magistrate Ist Class, Patiala whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State and non-bailable warrants of arrest were issued against the petitioner.

Learned counsel for the petitioner submits that after having been summoned under Section 138 of Negotiable Instruments Act by the trial Court, he was released on bail, pursuant thereto he was regularly appearing before the trial Court except on 24.05.2022 on which date due to unavoidable circumstances the petitioner was unable to appear and notice was issued for 04.08.2022, Annexure P-4 on which date the bail of the petitioner was cancelled and the bail bonds were forfeited to the State. Non-bailable warrants were issued for 19.09.2022, whereafter the petitioner filed an application for grant of anticipatory bail before the trial Court which was dismissed being not maintainable. A petition under the said

provision was filed before this Court which came to be withdrawn by the learned counsel vide order dated 21.11.2022, Annexure P-8 to file a fresh with better particulars. He further submits that his absence before the Court was neither wilful nor deliberate.

He, however, submits that the petitioner is ready and willing to join the proceedings, and prays that one opportunity may be granted for the petitioner to surrender before the learned trial Court, which may even be, subject to payment of costs. In support of his arguments learned counsel for the petitioner relies upon the orders 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 CRM-M-3649-2022, “Major Singh vs. State of Punjab”, decided on 15.9.2022.

Notice of motion.

Mr. Manipal Singh Atwal, DAG, Punjab, accepts notice on behalf of respondent-State.

Per contra, learned State counsel opposes the same and submits the impugned order has been rightly passed by the learned trial Court as the petitioner has absented before the trial Court.

Heard.

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 orders dated 04.08.2022, Annexure P-4 and 19.09.2022, Annexure P-5, are set aside, subject to deposit of Rs.10,000/- with the **Poor Patients Welfare Fund, PGIMER, Chandigarh**, <https://pgimer.edu.in/>. The petitioner is directed to surrender before the trial Court on or before 08.12.2022 and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail by imposing 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 30, 2022
Rimpal

(AMAN CHAUDHARY)
JUDGE

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No