

CRM-M-56381 of 2022

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

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CRM-M-56381 of 2022 (O&M)

Date of Decision: December 05, 2022

Paramjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Kamal Gupta, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

CRM-46623-2022

This is an application filed for grant of leave under Rule 3A(1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

CRM-M-56381 of 2022

The present petition under Section 482 of the Cr.P.C. has been for quashing the impugned order dated 07.10.2022 (Annexure P-6), passed by Additional District and Sessions Judge, Tarn Taran, whereby the bail order of the petitioner was cancelled due to his non-appearance.

Learned counsel submits that on the lodging of the FIR in question, the petitioner was granted regular bail by this Court vide order dated 18.09.2018, Annexure P-2. He further submits that final report was

presented on 08.05.2020, whereafter the petitioner continued to appear before the trial Court from 07.12.2021 till 20.05.2022 as is apparent from orders, Annexure P-5 (colly). It is his submission that on the application filed by the petitioner, he was granted exemption from personal appearance vide order dated 12.08.2022. However, the petitioner did not appear before the trial Court on 07.10.2022 on which date his bail bonds and surety bonds were cancelled and forfeited to the State. It is the case of the petitioner that due to the exemption having been granted on 12.08.2022, the petitioner was not aware of the next date of hearing, leading to his absence. He further submits that his absence was neither deliberate nor willful.

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-36490-2022, “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.

Heard.

It is apparent from the order dated 07.10.2022 that non-bailable warrants were issued for 02.12.2022, however, the petitioner filed the present petition on 30.11.2022 which shows his bona fide to join the proceedings.

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.”

Adverting to the facts of the present case inasmuch as it was due to non awareness of the next date, the petitioner could not appear before the trial Court, leading to the passing of the impugned order, which appears to be justified explanation of absence. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner being not willful or deliberate and his readiness and willingness to surrender and join the

proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

In view of the facts and circumstances of this case and the judgments referred to above, the impugned order dated 07.10.2022 (Annexure P-6), is set aside, subject to deposit of Rs.5000/- with the Bar Welfare Association, Tarn Taran. The petitioner is directed to surrender before the trial Court on or before 13.12.2022 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.

December 05, 2022
Rimpal

(AMAN CHAUDHARY)
JUDGE

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