

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

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**CRM-M-58660-2022 (O&M)
Date of Decision: 15.12.2022**

BIKKAR ALIAS BIKRAM

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. BS Beniwal, Advocate for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for quashing the order dated 28.10.2022 passed by the learned Additional Session Judge, Fatehabad, in FIR No.260 dated 03.11.2019, registered at Police Station Sadar Tohana, District Fatehabad, under Section 408 IPC and Sections 341, 342, 365 and 395 IPC and Section 25 of the Arms Act (added later on).

Learned counsel for the petitioner submits that the petitioner was granted bail by the High Court on 06.11.2020 and he was regularly appearing before the Court below; that on 28.10.2022, the petitioner could not appear before the Court as he met with an accident, though he had informed the same to his counsel and accordingly, his surety/bail bonds were cancelled and forfeited to the State, and non-bailable warrants against the accused-petitioner and notice to his surety under Section 446 Cr.P.C. were issued for 22.11.2022. It is, thus, contended that non-appearance of the petitioner was neither intentional nor wilful, but for the reasons explained above.

Notice of motion.

On the asking of this Court, Mr. Rupinder Singh Jhand, Additional AG Haryana, accepts notice on behalf of the respondent-State.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on a solitary date i.e. 28.10.2022, as he met with an accident and therefore, his non-appearance on the said date was unintentional.

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 as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Though the petitioner absented himself from the Court proceedings, yet 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, subject to him depositing the costs of Rs.15,000/- with the concerned District Legal Services Authority. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

15.12.2022

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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