

CRM-M-57100 of 2022

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

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CRM-M-57100 of 2022

Date of Decision: December 09, 2022

Suaib

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Arjun Atri, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 20.05.2022 (Annexure P-2), passed by Judicial Magistrate Ist Class, Nuh, whereby the petitioner has been declared as proclaimed offender.

Learned counsel for the petitioner contends that the petitioner was implicated in a false case. It is his submission that though as per order passed by the trial Court dated 20.05.2022, Annexure P-2, it is mentioned that bailable warrants and non-bailable warrants were issued against the petitioner, however, the same were not executed as the petitioner was completely in dark about the issuance thereof. Similarly regarding the proceedings initiated against him under Section 82 of the Cr.P.C., the petitioner had no intimation and the summons were never served upon him. It is his categorical case that had if he been served, he would have surely appeared before the Court. It is his further submission that consequent to the petitioner having been declared as proclaimed offender, FIR under Section 174-A IPC has also been registered against him wherein he had filed an

application for grant of anticipatory bail before the Court of Sessions, which was dismissed. The order whereby he was declared proclaimed offender is under challenge and a direction was issued to lodge the FIR under Section 174-A IPC as well as to the FIR dated 05.07.2022 registered under Section 174-A IPC.

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. Tanuj Sharma, AAG, Haryana, who has appeared on receipt of advance copy of the petition, opposes the petition by submitting that the impugned order has been rightly passed by the learned 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.

Adverting to the facts of the present case inasmuch as the the summons were never served upon the petitioner, thus could not appear before the trial Court, leading to the passing of the impugned order, which

appears to be justified explanation of absence. At times, the accused or his counsel can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot necessarily be construed as deliberate and willful. 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 20.05.2022, Annexure P-2, is set aside, subject to deposit of Rs.10,000/- with the Bar Welfare Association, Nuh. The petitioner is directed to surrender before the trial Court on or before 16.12.2022 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 09, 2022
Rimpal

(AMAN CHAUDHARY)
JUDGE

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