

133 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58884-2022

Date of Decision: 19.12.2022

ASIF FAZLANI

..... Petitioner

Versus

STATE OF HARYANA

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Anmol Partap Singh Mann, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking setting aside of order dated 19.07.2022 (Annexure P-5) whereby Additional Sessions Judge, Faridabad, in Sessions Case SC/601/2019 titled "State of Haryana Vs. Gaurav Sharma and others" under Sections 27(b) (ii) and 28 of Drugs and Cosmetics Act, 1940 has rejected application seeking exemption from appearance and further cancelled bail bonds of the petitioner.

Learned counsel for the petitioner *inter alia* contends that petitioner is engaged in the business of manufacturing of tobacco products. The respondent filed complaint before Magistrate which came to be committed to Sessions Court. The petitioner was summoned vide order dated 05.11.2012 (Annexure P-2). The petitioner is regularly appearing before Trial Court and facing mental agony since 2012. The petitioner is staying at Mumbai and it is very difficult to join proceedings at Faridabad. On account of health reasons, the petitioner sought exemption which came to be rejected. Learned Sessions Court apart from rejecting request for exemption has cancelled bail bonds of the

petitioner. It is a complaint case and petitioner is director of a manufacturing concern so there is no possibility of flee from justice. The petitioner is not involved in any other case except these cases under Drugs and Cosmetic Act, 1940. The petitioner is ready and willing to appear before the Trial Court and undertakes to appear on each and every date. The petitioner further undertakes to pay costs of Rs.50,000/-.

Notice of motion.

On the asking of Court, Ms. Dimple Jain, AAG, Haryana accepts notice on behalf of the State. She does not dispute the above stated factual position. She has no objection, if petition is disposed of subject to costs.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

Keeping in mind:

- i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus ,his presence would meet ends of justice;
- ii) The Petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs.

50,000/-

- iii) The Petitioner is ready to furnish bond/surety to the satisfaction of the trial court;
- iv) The petitioner is a director of a manufacturing Company and trial in question is a complaint case.
- v) Trial is pending since 2012 and petitioner is ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before learned Trial Court on or before 15.02.2023 and on his doing so, the Trial Court shall admit him to bail on furnishing fresh bail bonds alongwith costs of Rs. 50,000/- to be paid to the PGI Poor Patient Welfare Fund, Chandigarh.

Before parting with this order, I would hasten to add that trial is pending since 2012 and it is a complaint case. Learned Additional Sessions Judge, Faridabad is requested to expedite the trial and preferably conclude within 6 months from the date of appearance of the petitioner.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

19.12.2022
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>