

CRM-M-57318 of 2022

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

116

CRM-M-57318 of 2022 (O&M)

Date of Decision: December 13, 2022

Manjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Saurabh Chobey, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

CRM-48101 of 2022

This application is for placing on record Annexure P-5.

Application is allowed as prayed for.

Annexure P-5 annexed with the application is taken on record.

CRM-M-57318 of 2022

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 03.03.2022 (Annexure P-4), passed by Judge Special Court, Jalandhar whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel contends that in the FIR which was lodged against the petitioner, he was arrested on 21.07.2018 and granted bail on 20.08.2018, Annexure P-2. Thereafter the challan was presented on 30.11.2018 and the charges were framed on 22.01.2019. Petitioner continued to appear before the trial Court for which he makes a reference to the zimini orders, dated 22.01.2019, 07.03.2019, 14.05.2019, 14.08.2019,

10.09.2019, 18.12.2019, 17.01.2020, 09.12.2020, 28.01.2021, 27.04.2021 and 20.09.2021. The Court was not functional on 02.05.2020, 04.07.2020, 28.08.2020, 01.10.2020 and 09.12.2020 due to Covid-19 pandemic thus, the case was adjourned due to the same. Petitioner did not appear on 27.04.2021, and case was adjourned to 20.09.2021, to await his appearance, on which date he appeared. The petitioner not having appeared before the Court on 20.01.2022 due to restricted functioning of the Court as he was allowed to enter the Court premises, his presence was exempted on the said date. Thereafter, on 03.03.2022 the petitioner was unable to appear on account of the date not being apprised to the petitioner by his counsel leading to his bail being cancelled, bail bonds and surety bonds forfeited to the State vide order of even date, Annexure P-4. Non-bailable warrants were issued for 04.07.2022. He thereafter, filed an anticipatory bail application before the Court of Sessions, which was dismissed vide order dated 30.11.2022. It is his submission that his absence was neither wilful nor deliberate but on account of reasons aforesaid.

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, 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 petitioner was unable to appear on account of the date not being apprised to the him by his counsel, 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 03.03.2022 (Annexure P-4), is set aside, subject to deposit of Rs.10,000 with the Bar Welfare Association, Jalandhar. The petitioner is directed to surrender before the trial Court on or before 20.12.2022 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 13, 2022

Rimpal

(AMAN CHAUDHARY)**JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No