

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-57763-2022
Date of decision : 13.12.2022

Harvinder Singh

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Pushpinder Kaushal, Advocate
for the petitioner.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of impugned order dated 21.11.2022 passed by the Judicial Magistrate Ist Class, Sirsa, vide which the trial Court had cancelled the bail of the petitioner and had issued warrants of arrest against the petitioner.

Learned counsel for the petitioner has submitted that the petitioner was granted anticipatory bail by a coordinate Bench of this Court vide order dated 30.10.2020 and thereafter, the petitioner along with other co-accused had filed the petition under Section 482 Cr.P.C. for quashing of the FIR and vide order dated 06.04.2021, a coordinate Bench of this Court was pleased to issue notice of motion and had further directed the trial Court to adjourn the matter to a date beyond the date fixed by the High Court and the said interim order was to continue till the next date of hearing in the said case. It is submitted that thereafter on 11.03.2022, the

coordinate Bench of this Court adjourned the matter sine die and in the said order it was specifically ordered that till then, the interim order dated 06.04.2021 would continue to operate and the complainant in the said case has moved CRM-19117-2022 in which notice of motion was issued for 25.08.2022 and now the matter is pending for 11.01.2023. It is further submitted that since the said interim order was in favour of the present petitioner, thus, there was no requirement for the petitioner to appear before the trial Court as per the advice given by the local counsel. However, it is submitted that in spite of the same, vide order dated 21.11.2022, the Judicial Magistrate Ist Class, Sirsa had passed the impugned order cancelling the bail of the petitioner. It is stated that the case before the trial Court is listed for 21.01.2023 and the petitioner undertakes to appear before the trial Court on 21.01.2023 and is also ready to pay Rs.5000/- to the complainant without admitting his liability.

Learned State counsel, on the other hand, has opposed the present petition and has submitted that the petitioner was aware of the said date before the trial Court and his absence was intentional.

This Court has heard learned counsel for the parties and has perused the paper book.

A perusal of the order dated 30.10.2020 would show that the petitioner was granted the concession of anticipatory bail by a coordinate Bench of this Court. The petitioner, along with other co-accused, had then filed a petition under Section 482 Cr.P.C. for quashing of the FIR and vide order dated 06.04.2021, the trial Court was directed to adjourn the matter to a date beyond the date fixed by this Court and operation of the interim order was ordered to continue till the next date of hearing. A perusal of the order

dated 11.03.2022 (Annexure P-5) would show that the coordinate Bench had then adjourned the matter sine die and specifically ordered that the said interim order would continue to operate. In view of the fact that the interim order granted in favour of the petitioner is still continuing, thus, the plea taken by the petitioner that on legal advice, he did not appear on 21.11.2022, cannot be stated to be not bonafide. A perusal of the order dated 21.11.2022 shows that no witness of the prosecution was present on the said date.

Keeping in view the above said facts and circumstances, the present petition is allowed and the impugned order dated 21.11.2022 is set aside, subject to the petitioner appearing before the trial Court on 21.01.2023 and also subject to the petitioner depositing an amount of Rs.5000/- with the trial Court and on appearance of the petitioner before the trial Court on 21.01.2023, the petitioner would be released on bail on his furnishing bail bonds and surety bonds subject to the satisfaction of the trial Court. The amount of Rs.5000/- deposited by the petitioner would be released by the trial Court to the complainant and the said deposit would not be construed as admission of guilt by the petitioner.

It is made clear that in case the petitioner does not comply with the above said conditions, the present petition shall be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

December 13, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No