

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

130

CRM-M-57761-2022 (O&M)

Date of Decision: 12.12.2022

BALJEET

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Sourabh Sheoran, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for quashing of the order dated 26.09.2022 passed by the learned Additional Sessions Judge, Narnaul, in case bearing FIR No.25 dated 28.02.2016, registered under Sections 306, 506 and 34 IPC, at Police Station Satnali, District Mahendergarh.

Learned counsel for the petitioner submits that the petitioner was granted regular bail by the learned Additional Sessions Judge, Narnaul, on 04.07.2018 and he was regularly appearing before the said Court; that on 26.09.2022, the petitioner could not appear before the Court due to medical emergency and accordingly, his surety/bail bonds were cancelled and forfeited to the State and his non-bailable warrants and notice to his surety under Section 446 Cr.P.C. were issued for 25.11.2022. It is, thus, contended that non-appearance of the petitioner was neither intentional nor wilful, but for the reasons explained above. He further submits that the petitioner has not been declared as a

proclaimed offender till date and that the case before the Court below is now fixed for 04.01.2023.

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. 26.09.2022, due to medical emergency 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 allowed and the order dated 26.09.2022 passed by the Court below is hereby set aside. The petitioner is directed to surrender before the trial Court/Duty Magistrate on 04.01.2023, 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.

12.12.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No