

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

201

CRM-M No. 49746 of 2019
Date of Decision: 11.10.2022

Ajay Kumar

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: None for the petitioner.

Mr. Manish Bansal, D.A.G, Haryana.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
296	05.06.2011	Civil Lines, Rohtak	406, 420 IPC

Seeking the quashing of issuance of warrant of arrest Annexure P-4, the accused has come up before this court under Section 482 of the Code of Criminal Procedure, 1973 (CrPC).

2. Petitioner was arraigned as an accused in the above-captioned matter. On failure to serve the petitioner through the ordinary process, including summons, bailable warrants, the concerned court finally proceeded against the petitioner and issued non-bailable warrant.
3. The point to which the petitioner wants to draw the attention of this court is that the absence was not willful and was due to factors beyond the petitioner’s control. The State could not dispute the factual matrix at this stage.
4. The primary object of service is to secure the accused's presence in trial. The petitioner has approached this court on its own, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet. Furthermore, without adjudicating the maintainability of this petition under section 482 Cr.P.C and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty.

Thus, exercising the inherent powers under section 482 CrPC, this court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

5. Given the above, the petitioner has made a case on the preponderance of probability that neither any sincere attempt was made to execute the warrants nor did the petitioner have any knowledge about appearance.
6. Consequently, the impugned order dated 21.09.2019, passed by Id. JMIC, Rohtak, Annexure P-4, is set aside, and the non-bailable warrants issued against the petitioner in the FIR captioned above shall not be enforced till 31.10.2022, and in case the petitioner complies with this order, then warrants shall also stand recalled. The petitioner is directed to appear before the concerned court before 31.10.2022. The petitioner shall be at liberty to apply for bail before the trial court, and the concerned court shall release the accused on bail on the same date subject to furnishing bonds of its satisfaction. Suppose the petitioner fails to appear within fifteen days from today, in that case, it might be considered that if released on bail, it may not be feasible to produce the accused to face the trial, and consequently, this order shall be recalled automatically under section 362, read 482 CrPC, without further reference to this court.
7. Within 30 days, the petitioner shall deposit a sum of rupees ten thousand in the following account and hand over its receipt to the trial court.

Account Name – “HARYANA POLICE WELFARE FUND”
Account No. - 50100097073807
Account Type - Saving Account
Bank Name - HDFC Bank, Sector-8, Panchkula
IFSC Code - HDFC000108”

Petition allowed to the extent above subject to the compliance mentioned above. All the pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

11.10.2022

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.