

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-57896-2022 (O&M)
Date of decision: 13.12.2022

HARJOT SINGH AND ANOTHER

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Balram Prashar, Advocate
for the petitioners.

AMAN CHAUDHARY. J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 02.12.2022 (Annexure P-1), passed by Additional Sessions Judge, Ludhiana, whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel for the petitioner contends that in the FIR lodged against the petitioner, he was granted regular bail vide order dated 15.04.2021 Annexure P-2. Thereafter, on completion of investigation, supplementary final report under Section 173(8) Cr.P.C. was submitted against the petitioner on 19.05.2021, thereafter charges were framed against the petitioner on 15.02.2022. The petitioner had appeared before the trial Court on 05.08.2022, whereupon the case was adjourned to 02.12.2022, on which date due to inadvertent error of wrong noting of the date for hearing before the trial Court by the learned counsel representing the petitioner, the petitioner could not appear on the said date and

the bail was cancelled and the bail bonds and surety bonds were ordered to be forfeited and non-bailable warrants were issued for 21.02.2023.

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 order of non-bailable warrants were passed on 02.12.2022 for 21.02.2023. The present petition has been filed on 08.12.2022 which shows the bona fide of the petitioner to appear before the trial Court and join proceedings.

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 learned counsel for the petitioner had noted wrong date of hearing, due to which the petitioner 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 02.12.2022, Annexure P-1, is set aside, subject to deposit of Rs.10,000/- with District Bar Association, Ludhiana. The petitioner is directed to surrender before the trial Court on or before 22.12.2022 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 a 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.

Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

December 13, 2022

M.Kamra/GSV

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No