

CRM-M-57977 of 2022

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

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CRM-M-57977 of 2022

Date of Decision: December 12, 2022

Sumesh Singh @ Sunny

...Petitioner

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Rachit Kaushal, Advocate
for the petitioner.

AMAN CHAUDHARY, J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 20.07.2022 (Annexure P-4), passed by Chief Judicial Magistrate, Kapurthala, 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 lodged against the petitioner, he was granted regular bail vide order dated 21.04.2020 by the trial Court. It is his further submission that final report under Section 173 Cr.P.C. was presented by the police authorities, whereupon the petitioner duly appeared and furnished surety before the Court. The father of the petitioner met with a serious road accident wherein he sustained injuries on the head causing severe damage to his brain and he was at Sacred Heart Hospital, Jalandhar, the diagnosis reached by the doctors was "Acute Subdural Haematoma" and "Post Craniotomy with Evacuation of Clots".

Thus, in medical literature, means bleeding in the brain, and Craniotomy is a surgical procedure whereby a part of cranial bone is removed to evacuate blood clots formed between the brain and the skull bone. Medical record of the father of the petitioner is annexed herewith as Annexure P-3. It is due to the said injury, the petitioner who is the only son had to take his father to the hospital numerous times a week and had to assist him in physically for simple movements like walking also. He had accordingly requested his counsel before the trial Court to file an application for exemption from personal appearance, however due to communication gap between the petitioner and his counsel, the said application could not be filed and the petitioner was not informed about the date of hearing leading to cancellation of bail and bail bonds and surety bonds which stood forfeited to the State by the trial Court vide order dated 20.07.2022, Annexure P4. It is his submission that since his mother had also expired, there was no one else in the family to look after his father, who had been seriously injured in the road accident, that the petitioner was unable to appear before the trial Court. His absence was thus neither willful nor deliberate but for the 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. 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 in hospital with his father, 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 20.07.2022, Annexure P-4, is set aside. The petitioner is directed to surrender before the trial Court on or before 16.12.2022 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 12, 2022

Rimpal

**(AMAN CHAUDHARY)
JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No