

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

117

CRM-M-58214-2022 (O&M)
Date of decision: 14.12.2022

HITESH GOYAL

....Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vishva Nath Sharma, 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 21.10.2022 (Annexure P-2), passed by Additional Sessions Judge, Jagadhri, whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel submits that he was appearing in the criminal appeal and was granted conditional bail vide order dated 13.06.2019, subject to deposit of 20% of the cheque amount. He had attended the hearing on 02.06.2022, however on 03.06.2022, he went to Hyderabad and returned on 16.11.2022 as he is a patient of blood clotting in head on account of which he is taking medical treatment and the same has resulted in Amnesia. He has placed on record the air tickets of arrival and departure as Annexure P-1. It is on account of the aforesaid fact that the petitioner was unable to appear before the Court on 21.10.2022, on which date his bail was cancelled and his bail bonds and surety bonds are

forfeited to State. Non-bailable warrants for arrest were issued for 15.12.2022. On query posed by the Court insofar as the compliance of the condition of payment of 20% amount by the appellant is concerned, he makes a reference to order dated 21.09.2019 Annexure P-3, wherein, it has been recorded that in compliance of order dated 13.06.2019, the appellant had deposited 20% amount vide receipt dated 10.09.2019.

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 to respondent No.1.

Mr. Tanuj Sharma, AAG Haryana 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.

In this case, notice has not been issued to respondent No.2-complainant as no order prejudicial to its rights, is being proposed to be passed by this Court.

Heard.

The order of non-bailable warrants were passed on 21.10.2022 for 15.12.2022. The present petition has been filed on 12.12.2022, 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 petitioner had to travel to Hyderabad for his treatment, 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 21.10.2022 (Annexure P-2), is set aside, subject to deposit of Rs.10,000/- with the District Bar Association at Jagadhri. The petitioner is directed to surrender before the trial Court on or before 20.12.2022 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.

Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

December 14, 2022

S.Sharma(syr)

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