

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-58364-2022 (O&M)

Date of decision: 14.12.2022

PARMOD @ PARMOD KUMAR

....Petitioner(s)

Versus

STATE OF UT CHANDIGARH

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.N. Maurya, Advocate
for the petitioner.

Ms. Simsi Dhir Malhotra, APP UT Chandigarh.

AMAN CHAUDHARY. J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 23.09.2022 (Annexure P-6), whereby petitioner was declared as Proclaimed Person and order dated 14.06.2022 (Annexure P-4) passed by Judicial Magistrate Ist Class, Chandigarh 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 submits that in this case, complaint filed under Section 138 of NI Act in which he had granted bail by the trial Court, thereafter he was appearing regularly before the Court except on 10.05.2022, when he was out of station in connection with his business. He had requested his counsel to file an application for exemption, however, due to communication gap, the same was not filed, leading to issuance of non-bailable warrants for 14.06.2022, wherein bail was cancelled and bail bonds and surety bonds stands forfeited to the State. It is his submission that the petitioner had shifted his

business premises with effect from 01.02.2018 from plot No.19, Industrial Area Phase-2 Chandigarh to Plot No.653, Industrial Area Phase-I, Chandigarh, which was well within the knowledge of respondent No. 2-complainant as he used to supply goods to the petitioner at his new premises, however, he had intentionally mentioned the old address in the complaint, on which the warrants could not be executed. He had contacted his counsel to know the next date of hearing, who had informed him that on account of having misplaced the file, he was unable to inform about the next date of hearing. Proclamation proceedings were initiated accordingly vide order dated 23.09.2022 Annexure P-6 vide which he was declared proclaimed person. He further refers that at the initial summoning stage also the report that he had left the address but the respondent-complainant did not furnish the correct address despite having knowledge of the petitioner having shifted from the previous premises as stated above. Learned counsel also submits that he has instructions from his client that he is ready and willing to pay the entire amount of Rs. 5 lacs.

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.

Ms. Simsi Dhir Malhotra, APP for UT Chandigarh, 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 out of station in connect with his business, though he had requested his counsel to file an application for exemption, however, due to communication gap, the same was not filed, 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 23.09.2022 (Annexure P-6), whereby petitioner was declared as Proclaimed Person and order dated 14.06.2022 (Annexure P-4) passed by Judicial Magistrate Ist Class, Chandigarh whereby the

bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State, are set aside, subject to deposit of Rs.10,000/- with the Bar Association at District Court, Chandigarh. The petitioner is directed to surrender before the trial Court on or before 21.12.2022 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.

(AMAN CHAUDHARY)
JUDGE

December 14, 2022

S.Sharma(syr)

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