

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRM-M-58628-2022 (O&M)
Date of decision: 15.12.2022

ASHIMA JAIN

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Manish Verma, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 26.10.2022 (Annexure P-6), passed by Judicial Magistrate Ist Class, Ludhiana had cancelled the bail order dated 26.09.2019 and non-bailable warrants of arrest were issued against the petitioner.

Learned counsel for the petitioner submits that in the FIR lodged against her, regular bail was granted by the learned trial Court vide order dated 26.09.2019 Annexure P-3, whereupon petitioner was regularly appearing before the trial Court on each and every date of hearing as has been depicted in para 2.5 of the petition, except for the dates, on which due to Covid-19, there was restricted functioning of the Courts. It is his submission that an application for exemption for appearing before the trial Court on 26.10.2022 was filed giving the reason of her having gone to Delhi for some urgent work, which was declined without recording any reason and vide the same order dated 26.10.2022, Annexure P-6, the bail of the petitioner was cancelled and her bail bonds and surety bonds were forfeited to State and non-bailable warrants were issued for 19.11.2022. Thereafter the petitioner filed an application for grant of anticipatory bail, which was dismissed by the trial

Court vide order dated 01.12.2022, Annexure P-7.

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 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 visit Delhi for urgent work, for which she had duly filed an application for exemption of appearance, which however was dismissed by 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 her 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 her 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 26.10.2022 (Annexure P-6), is set aside, subject to deposit of Rs.5,000/- to be deposited before the trial Court, which shall disburse it to the complainant. The petitioner is directed to surrender before the trial Court on or before 19.12.2022 and furnish her fresh bail/ surety bonds. On so doing, the trial Court shall release her on bail by imposing surety to its satisfaction. She is also directed to furnish an undertaking by way of her affidavit that she will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. She shall also surrender her 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 15, 2022
M.Kamra /S.Sharma(syr)

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