

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

CRM-M-59196-2022 (O&M)

Date of Decision:19.12.2022

PARAS MAGOO

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. B.D. Sharma, Advocate
for the petitioner.

JAGMOHAN BANSAL, J. (Oral)

CRM-49190-2022

Exemption application allowed as prayed for.

CRM-M-59196-2022

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking quashing of order dated 17.09.2022 (Annexure P-6) passed by Sub Divisional Judicial Magistrate, Balachaur, whereby bail bonds furnished by the petitioner have been cancelled and non-bailable warrants of arrest are issued against the petitioner in FIR No.98 dated 06.08.2018 under Section 279, of IPC 1860 read with Section 61 of the Punjab Excise Act 1914, registered at Police Station Kathgarh, District Saheed Bhagat Singh.

Learned counsel for the petitioner *inter alia* contends that FIR was registered on 06.08.2018 and petitioner was arrested. The petitioner was released on regular bail on 20.08.2018. The maximum sentence prescribed under Section 279 of IPC and Section 61 of Excise Act is less than 3 years. The Trial Court had framed charges on

04.09.2019 and petitioner continued to appear from 2018 to July, 2022. The prosecution from September, 2019 to 17.08.2022 has not examined even a single witness. The petitioner is suffering from skin disease known as psoriasis which is an incurable disease. The petitioner is suffering from rashes, itching and scary patches which are very painful. Non appearance was unintentional and beyond the control of the petitioner.

Notice of motion.

On the asking of Court, Mr. Amish Sharma, AAG, Punjab accepts notice on behalf of the State. He does not dispute the above stated factual position. He has no objection, if petition is disposed of subject to costs.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

Keeping in mind:

- i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus ,his presence would meet ends of justice;
- ii) The Petitioner is ready to furnish bond/surety to the

satisfaction of the trial court;

- iii) The petitioner is resident of District Jalandhar and trial is pending at Saheed Bhagat Singh, thus jurisdictional court and police authorities have direct access over the activities of the petitioner.
- iv) The petitioner was initially granted regular bail by learned Sessions Judge, Balachaur on 20.08.2018 and petitioner thereafter on many dates appeared before trial court;
- v) Trial is pending since 2018 and petitioner is ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before learned Trial Court on or before 23.01.2023 and on his doing so, the Trial Court shall admit him to bail on furnishing fresh bail bonds.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

19.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>