

CRM-M-59629-2022

Date of decision: 21.12.2022

Sunita Kaur

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. B.S. Jaswal, Advocate
for the petitioner.**NAMIT KUMAR, J. (ORAL)**

The instant petition has been filed by the petitioner under Section 482 Cr.P.C. seeking quashing of impugned order dated 01.11.2022 passed by the learned JMIC, Amritsar, whereby, the petitioner has been declared proclaimed person due to her absence on 15.06.2022 (Annexure P-5) and vide order of the same date i.e. 15.06.2022; her bail bonds and surety bonds were ordered to be cancelled and forfeited to the State and she was ordered to be summoned through non-bailable warrants. The anticipatory bail filed by the petitioner having been dismissed on 21.11.2022 being not maintainable, the petitioner has approached this Court.

Learned counsel for the petitioner submits that the petitioner could not appear on 15.06.2022 due to some unavoidable circumstances and her non-bailable warrants were issued and bail bonds/surety bonds were ordered to be cancelled and forfeited to the State. Notice to the surety was also issued.

He further submits that the main dispute has already been settled and compromise has been effected between the parties on 05.10.2022 (Annexure P-3) for quashing of FIR No.117 dated 12.10.2017 under Sections 406/494 of IPC registered at Police Station Chatiwind, District Amritsar (Rural) (Annexure P-4) and petition in this regard has already been preferred before this Court in which notice has been issued vide order dated 29.10.2022 and parties were directed to appear before the learned trial Court/Area Magistrate for recording of their statements on 15.11.2022. He further submits that due to compromise between the parties and as per advice of counsel, she was not appearing in the Court. He also submits that proclamation issued against her never served. No proclamation has been effected in her village.

Notice of motion.

Mr. Adhiraj Singh, AAG, Punjab puts in appearance and accepts notice on behalf of respondent No.1-State.

Mr. Karan Dhawan, Advocate puts in appearance and accepts notice on behalf of respondents No.2 & 3 in the Court today.

A perusal of the order dated 15.06.2022 (Annexure P-5) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non appearance before the trial Court is justified and therefore, the same is accepted.

Considering the above sequence of events, the impugned order

dated 01.11.2022 (Annexure P-7) is set aside subject to appearance of the petitioner before the trial Court within a period of 07 days from the date of passing of this order. On her appearance, she shall be released on bail by the trial Court on furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court. In the event of non-compliance of this order, the order dated 01.11.2022 would remain intact.

The petition is disposed off in above terms.

21.12.2022
Neha

(NAMIT KUMAR)
JUDGE

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