

CRM-M-59954 of 2022

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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM-M-59954 of 2022

Date of Decision: December 22, 2022

Gurbinder Singh @ Motu @ Gurbinder Singh @ Mintu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

**Present:-** Mr. Arjun Veer 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 24.11.2022 (Annexure P-4), passed by Additional Sessions Judge, Ludhiana, whereby the bail and bail bonds of the petitioner have been ordered to be cancelled.

Learned counsel contends that in the FIR lodged against him, the petitioner was granted regular bail vide order dated 16.07.2020, Annexure P-2. He continued to appear before the trial Court after the challan was presented, however, it was on one date i.e. 24.11.2022, the petitioner was unable to appear before the trial Court on account of the fact that there was a wedding of the sibling of the petitioner for which the wedding card has been placed on record as Annexure P-5. He submits that the trial Court vide order dated 24.11.2022 has cancelled the bail and forfeited the bail bonds and surety bonds to the State and non-bailable warrants have been issued for 03.01.2023. He submits that his absence was neither wilful nor deliberate.

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.

It is apparent from the order dated 24.11.2022 (Annexure P-4) that non-bailable warrants have been issued for 03.01.2023. The present petition has been filed on 17.12.2022 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 that due to the petitioner's sibling's wedding, petitioner 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 24.11.2022 (Annexure P-4), is set aside, subject to deposit of Rs.10,000/- with the Bar Welfare Association, Ludhiana. The petitioner is directed to surrender before the trial Court on or before 30.12.2022 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.

December 22, 2022  
Rimpal

(AMAN CHAUDHARY)  
JUDGE

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