

CRM-M-60513-2022

:1:

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CRM-M-60513-2022

Date of Decision: December 23, 2022

Partap Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Lakshay Bector, Advocate  
for the petitioners.

AMAN CHAUDHARY, J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 02.09.2022 (Annexure P-5), passed by Additional Sessions Judge, Ludhiana, whereby the bail order of the petitioners was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel for the petitioners submits that in the FIR lodged against them, they granted regular bail by the trial Court vide order dated 09.07.2021 (Annexure P-2). Thereafter, they have been regularly attending the Court proceedings except for 02.09.2022 wherein they were unable to appear having noted a wrong date. On account of the aforesaid, the bail was cancelled bail bonds and surety bonds forfeited to the State non-bailable warrants were issued vide order dated 02.09.2022 (Annexure P-5). He submits that their non-appearance was neither wilful nor deliberate.

He, however, submits that the petitioners are ready and willing to join the proceedings, and prays that one opportunity may be granted for the petitioners 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 petitioners 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 the petitioners noted wrong date, 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 their 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 them 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 petitioners, no

prejudice shall be caused to any of the parties, rather their 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 02.09.2022 (Annexure P-5), is set aside, subject to deposit of Rs.10,000/- with the Bar Welfare Funds, Ludhiana. The petitioners are directed to surrender before the trial Court on or before 30.12.2022 and furnish their fresh bail/ surety bonds. On so doing, the trial Court shall release him on bail by imposing surety to its satisfaction. They are also directed to furnish an undertaking by way of their affidavit that they will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. They shall also surrender their 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 petitioners do not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

**December 23, 2022**

Rimpal

**(AMAN CHAUDHARY)****JUDGE**

Whether reasoned/speaking: Yes/No

Whether reportable: Yes/No