

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

118

CRM-M-1179-2023

Date of Decision: 01.03.2023

MANOJ BHATIA @ MANU

....Petitioner

V/S

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Lovepreet Singh Sidhu for
Mr. Deepak Kaushal, 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 orders dated 15.07.2022 (Anneuxre P-2) and 09.11.2022 (Annexure P-5), passed by Court of CJM, Jalandhar, whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel for the petitioner contends that the petitioner who was involved in the FIR in question was granted regular bail by the learned trial Court. Thereafter he was regularly appearing for proceedings except on one day i.e. 15.07.2022, which was due to his ill health, that led to cancellation of his bail and surety bonds and the same were forfeited in favour of the State vide order dated 15.07.2022 (Annexure P-2) and non bailable warrants were against him. On 09.08.2022, the Ld. CJM, Jalandhar ordered summoning of the petitioner through proclamation for 09.11.2022.

On coming to know of the aforesaid, he filed an application for grant of anticipatory bail, which was dismissed by the learned Additional Sessions Judge, Jalandhar without appreciating the submissions made on behalf of the petitioner. He, however, submits that the absence of the petitioner is neither willful nor deliberate and is on account of the reason

aforesaid. He 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.

Learned State counsel opposes the petition by submitting that the impugned order is legal and valid and has been rightly passed by the learned trial Court on account of non-appearance of the petitioner.

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 that the petitioner due to his ill health, could not appear before the trial Court, leading to his non-appearance before the trial Court, which appears to be justified explanation of absence and that non-bailable warrants were not served on him. At times, the accused 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 orders dated 15.07.2022 (Annexure P-2) and 09.11.2022 (Annexure P-5), are set aside subject to the

petitioner surrendering before the trial Court on or before 15.03.2023 and depositing of 10,000/-with the Institute for Blind, Sector-26, Chandigarh 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.

01.03.2023
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[AMAN CHAUDHARY]
JUDGE

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