

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

117

CRM-M-1905-2023

Date of decision: 13.01.2023

Deshraj

....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sourabh Sheoran, 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 05.03.2021 (Annexure P-1), passed by Judicial Magistrate 1st Class, Narnaul, whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State.

Learned counsel submits that the petitioner has been granted regular bail in the FIR lodged against him. The challan was presented on 05.03.2021 before the court, however, the petitioner did not appear on account of the fact that the lawyers were abstaining from work and he was unaware that his presence can be marked in person also without his counsel. Consequently, vide order passed on the said date (Annexure P-1), his bail was cancelled and surety bonds were forfeited to the State and non-bailable warrants were issued against him. Thereafter, he filed an application before the Court of Sessions Judge, which was also dismissed vide order dated 29.09.2022. He submits that it is only on account of the aforesaid facts that he was unable to appear. His absence was neither willful 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. Tanuj Sharma, AAG, Haryana, who has appeared on receipt of advance copy of the petition, opposes the petition by submitting that the petitioner could have appeared in person and thus, the impugned order dated 05.03.2021 (Annexure P-1) 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 lawyers were abstaining from work and the petitioner was unaware that his presence can be marked in person also without his counsel, 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 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 05.03.2021, Annexure P-1, is set aside, subject to petitioner surrendering before the trial Court on or before 20.01.2023 and furnish his fresh bail/ surety bonds and depositing Rs.10,000 with the District Bar Association, Narnaul. 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.

(AMAN CHAUDHARY)
JUDGE

January 13, 2023

Mehak

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