

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-2179-2023 (O&M)
Date of decision: 16.01.2023

DEEPAK KUMAR @ DEEPAK

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Vikas Gupta, 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 order dated 21.07.2022 (Annexure P-3), passed by Additional Sessions Judge, Tarn Taran, whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State and non-bailable warrants of arrest had been issued against the petitioner.

Learned counsel submits that the petitioner applied for anticipatory bail before the learned Sessions Court, Tarn Taran and was granted interim bail vide order dated 16.02.2021 and the same was allowed vide order dated 26.02.2021. Thereafter, the petitioner regularly appeared before the learned trial Court on each and every date of hearing and never misused the concession of anticipatory bail. He submits that on 21.07.2022, the petitioner could not appear before the trial Court as the petitioner was ill and was suffering from vomiting and loose motions. The medical slip dated 20.07.2022 is annexed as Annexure P-

2 showing his treatment from Civil Hospital, Makhu. He submits that due to the absence of the petitioner, his bail order was cancelled, bail/surety bonds were forfeited to the State vide order dated 21.07.2022, Annexure P-3. Thereafter, the petitioner applied for anticipatory bail before the Court of Sessions, Tarn Taran, which was dismissed by the learned Additional Sessions Judge, Tarn Taran vide order dated 04.11.2022, Annexure P-4. Learned counsel contends that the absence of the petitioner is neither willful nor deliberate and is on account of the reason aforesaid.

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.

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 the petitioner

was ill and was suffering from vomiting and loose motions for which he has also annexed the medical slip as Annexure P-2 showing his treatment from Civil Hospital, Makhu, 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 21.07.2022 (Annexure P-3) passed by Additional Sessions Judge, Tarn Taran, is set aside, subject to deposit of Rs.10,000/- with the District Bar Association, Tarn Taran. The petitioner is directed to surrender before the trial Court on or before 19.01.2023 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.

(AMAN CHAUDHARY)
JUDGE

January 16, 2023

S.Sharma(syr)

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