

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRM-M-2536-2023 (O&M)
Date of decision: 17.01.2023

BITTU

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Gurpreet Kaur, 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 04.07.2022, passed by Additional Sessions Judge, (Fast Track Court) Ludhiana, whereby the bail order of the petitioner was cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants were issued against the petitioner.

Learned counsel submits that the petitioner was granted regular bail on 06.05.2019 and he was regularly appearing before the trial Court on each and every date of hearing. The case was thereafter listed for 24.01.2022 for consideration of charge and on the said date, the presence of the petitioner was dispensed with, keeping in view the upsurge of Covid-19 pandemic. Thereafter, the case was adjourned to 13.05.2022, on which date the petitioner was present before the Court as is reflected in order (Annexure P-2), but the bail order of co-accused Ishtkhar was cancelled as he was not present on that day. On the next date of hearing i.e. 04.07.2022, the petitioner was unable to contact his learned

counsel for which reason he defaulted in his appearance leading to cancellation of his bail order and his bail/surety bonds were forfeited to the State and non-bailable warrants were issued against the petitioner for 04.08.2022. Learned counsel contends that the case before the trial Court is now fixed for 21.01.2023, after framing of charges.

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.

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 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 inasmuch as the petitioner

could not contact his learned 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 04.07.2022, passed by Additional Sessions Judge, (Fast Track Court) Ludhiana, is set aside, subject to deposit of Rs.10,000/- with the Poor Patients Welfare Fund, PGIMER, Chandigarh. The petitioner is directed to surrender before the trial Court on or before 21.01.2023 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 17, 2023

S.Sharma(syr)

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