

CRM-M-2733 of 2023

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

CRM-M-2733 of 2023
Date of Decision: 19.01.2023

Sajan Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. Parvesh Malik, Advocate,
for Mr. Ramnish Puri, Advocate, for the petitioner.
Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

Instant second petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of impugned order dated 17.08.2022 (Annexure P-3) whereby non-bailable warrants of arrest have been issued against the petitioner as well as order dated 03.10.2022 (Annexure P-4) whereby bail order, personal bonds and surety bonds of the petitioner stood cancelled and forfeited to the State and order dated 24.11.2022 (Annexure P-4A) vide which proclamation against the petitioner has been issued by the Court of learned Additional Sessions Judge, Amritsar, in case FIR No.117 dated 18.10.2019 under Sections 379-B(2), 34 IPC, registered at Police Station Khilchian, District Amritsar.

Learned counsel for the petitioner submits that in the aforesaid case, petitioner was granted regular bail by the Court of learned

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Judicial Magistrate Ist Class, Amritsar, vide order dated 24.12.2019. Thereafter, he was appearing before the Court regularly. However, he could not appear before the trial Court on 17.08.2022 as instead of 17.08.2022 he had noted 17.11.2022 as the next date of hearing. He further submits that on 17.11.2022, petitioner came to know that orders dated 17.08.2022 and 03.10.2022 have been passed and non-bailable warrants of arrest have been issued against the petitioner and personal and surety bonds stood cancelled and forfeited to the State. Thereafter, vide order dated 24.11.2022 proclamation has been ordered to be issued against the petitioner by the Court of learned Additional Sessions Judge, Amritsar. Learned counsel submits that non-appearance of the petitioner before the Court was neither intentional nor deliberate but for the aforementioned reasons. He further submits that petitioner is ready to appear before the trial Court and abide by all the conditions to be imposed by this Court. Therefore, impugned orders may be quashed.

Notice of motion.

At this stage, Mr. Adhiraj Singh, A.A.G., Punjab. accepts notice on behalf of the respondent-State and submits that the impugned orders are perfectly valid, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court regularly.

I have heard learned counsel for the parties and perused the record.

The objective of the coercive mechanism prescribed under

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the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua him. A perusal of the orders dated 17.08.2022 and 03.10.2022 reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non appearance before the trial Court is justified and therefore, the same is accepted.

Considering the above sequence of events, the impugned orders are set aside subject to payment of costs of Rs.10,000/- to be deposited by the petitioner with the Punjab and Haryana High Court Lawyers' Welfare Fund within two weeks. Petitioner is directed to appear before the trial Court on or before 02.02.2023 and on his doing so, he shall be released on bail to the satisfaction of the trial Court. In the event of non-compliance of this order, the impugned orders would remain intact.

The petition is disposed of in above terms.

19.01.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No