

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-7334-2023 (O&M)

Date of decision: 10.02.2023

HARJEET SINGH

....Petitioner(s)

Versus

STATE OF HARYANA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. J.S. Sandhu, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the order dated 02.12.2022 (Annexure P-2), passed by Additional Sessions Judge, Sirsa, in case FIR No.162 dated 18.05.2020 under Section 15 of NDPS Act, 1985 registered at Police Station Dabwali Sadar, District Sirsa, Haryana.

Learned counsel contends that in the FIR lodged against him, the petitioner was initially granted anticipatory bail by this Court vide order dated 28.08.2020 in *CRM-M-17078-2020* and thereafter, he joined investigation. On submission of the presentation of the challan, the petitioner had been appearing before the trial Court on each and every date of hearing except for one date i.e. On 02.02.2012, on which he failed to appear before the trial Court on account of having noted down a wrong date, that led to cancellation of his bail, forfeiture of his bail bonds by the State and warrants of arrest were issued by the learned trial Court vide order dated 02.12.2022 for 13.02.2023.

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. Tanuj Sharma, AAG Haryana who has appeared on receipt of advance copy of the petition, 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 order of arrest warrants were issued on 02.12.2022 for 13.02.2023. The present petition has been filed on 08.02.2023, which shows the bona fide of the petitioner to appear before the trial Court and join proceedings.

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 had noted the wrong date, thus he could not appear before the trial Court, which appears to be justified explanation of absence. 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 order dated 02.12.2022 Annexure P-2 is set aside subject to the petitioner surrendering before the trial Court on or before 13.02.2023 and depositing of Rs.10.000/- with District Bar Association, Sirsa 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

February 10, 2023

M.Kamra

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