

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRM-M-9741-2023 (O&M)
Date of decision: 23.02.2023

NARESH KUMAR ALIAS MICHAL

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Neeraj Madaan, 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 18.04.2022 (Annexure P-3), passed by learned trial Court, whereby the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State in FIR No.160 dated 23.11.2019, under Section 21 and 29 of the NDPS Act, registered at Police Station Bhawala, District Fazilka.

Learned counsel submits that the FIR was lodged on 23.11.2019. The petitioner was granted regular bail vide order dated 06.01.2020, Annexure P-2. He was thereafter regularly appearing before the trial Court except on 18.04.2022, on which date he was unable to appear due to pain in his spine due to which he could not move properly and requested his counsel to file an application for his exemption but due to rush of work his counsel could not do so. Thereafter the grant-mother of the petitioner had expired on 03.06.2022 and the petitioner could not approach his counsel as he was also under treatment for his spine. He submits that the petitioner is not involved in any other case under the NDPS Act.

He had filed anticipatory bail application, which was dismissed by the learned Court vide order dated 31.01.2023, Annexure P-4. He, however, submits that the absence of the petitioner is neither willful nor deliberate and is on account of the reason aforesaid. 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.

Learned State counsel 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 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 was having pain in his spine and was under treatment leading to his non-appearance before the trial Court, and thereafter his grand mother expired, which appears to be justified explanation of absence and that non-bailable warrants were not served on him. 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 18.04.2022 (Annexure P-3) is set aside subject to the petitioner surrendering before the trial Court on or before 10.03.2023 and depositing of 10,000/- with the District Bar Association, Fazilka 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 23, 2023

S.Sharma(syr)

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