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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9638-2023

Date of Decision: February 23, 2023

Sarjeet alias Sarjeel Ahmad Khan

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Lalit Kumar Yadav, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

Instant petition has been filed under Section 438 Cr.P.C. praying for grant of anticipatory bail to the petitioner in case FIR No.768, dated 23.12.2016, under Section 68 of the Punjab Excise Act, 1914, registered at Police Station Sushant Lok, Gurugram, District Gurugram.

Counsel for the petitioner has stated that the petitioner was required to challenge the order dated 04.05.2017 when due to his absence, his bail/surety bonds were cancelled and non-bailable warrants were issued against him. He has prayed for treating this petition under Section 482 Cr.P.C. for challenging the order dated 04.05.2017.

Allowed as prayed for.

This petition is treated as filed under Section 482 Cr.P.C. challenging the order dated 04.05.2017, vide which his bail/surety bonds were cancelled and his non-bailable warrants were issued.

It has been submitted by counsel for the petitioner that petitioner is an innocent person and he has committed no offence, as alleged

in the FIR. It is further submitted that the petitioner had never received any information by way of summons or bailable warrant etc. with regard to present case and therefore he was not aware of the proceedings pertaining to the present case. It is further submitted that he did not appear on the date fixed before the Court below due to wrong advice given to him by his previous counsel and he was under the impression that the case had been closed by the Court at the time of releasing him on bail and hence his bail bonds were cancelled and forfeited to the State and non-bailable warrants were issued against him on 04.05.2017. He submits that petitioner will be conscious enough and undertakes not to repeat this mistake in future and he will abide by all terms and conditions of bail. He submits that in view of the aforementioned facts, order dated 04.05.2017 be quashed and he be allowed to appear before the trial Court and face trial.

Issue notice of motion.

On asking of the Court, Mr.Kirpal Singh Thakur, AAG, Haryana., who is present in Court, accepts notice on behalf of the respondent-State and has stated that the non-bailable warrants have been rightly issued against the petitioner who remained absent from proceedings before the Court w.e.f. 04.05.2017 till date and as such he is not entitled to any relief.

After hearing learned counsel for the parties and going through the record, it is apparent that petitioner was on interim bail and due to wrong advice, he remained absent on 04.05.2017 resulting in forfeiture of his bail/surety bonds. Keeping in view the fact that the petitioner remained absent on wrong advice and is ready to join the proceedings, the present petition is disposed of. Order dated 04.05.2017 is set aside subject to

payment of Rs.10,000/- as costs, to be deposited with the Poor Patients' Welfare Fund, PGIMER, Chandigarh, by the petitioner within a period of one week from today. In case, the petitioner appears and surrenders before the Court concerned within a period of ten days from today and produce receipt of abovesaid costs and files appropriate application, the concerned Court would grant him bail to its satisfaction. He will have protection from arrest for a period of 10 days from today.

Needless to say that in case the petitioner fails to comply with the abovesaid direction, he will have no benefit of abovesaid protection granted by this Court and order under challenge dated 04.05.2017 would come in force.

February 23, 2023
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |