

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

CRM-M No.11671 of 2022

Date of decision: 16th January, 2023

Ashwani Kumari Kohli

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Renu Arora, Advocate for the petitioner.

Mr. Sanish Girdhar, Assistant Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

Instant petition has been filed under Section 482 Cr.P.C. for quashing of the order dated 23.02.2022 (Annexure P-4) passed by the learned Chief Judicial Magistrate in CIS No.CHI-43-2022 (FIR No.94 dated 20.10.2021 under Sections 406, 420, 120-B IPC at Police Station Division No.4, Jalandhar) (Annexure P-1), vide which the bail order of the petitioner as well as her bail bonds and surety bonds were cancelled and forfeited due to her non-appearance before the learned Court.

Learned counsel for the petitioner, while inviting the attention of this Court to the impugned orders, has vehemently urged that they had been passed by the Court below without appreciating the correct factual position and thus, deserved to be set aside. Learned counsel contended that after the petitioner was released on bail, case

was fixed for 21.01.2022, however, on account of the outbreak of the third wave of COVID-19 pandemic, the petitioner was unable to appear on the date fixed due to restrictive functioning of the Courts. Similarly, when the case was thereafter adjourned and fixed for 04.02.2022, Courts were still functioning in a restrictive mode as is evident from the order dated 14.01.2022 (Annexure P-3), circulated by the learned District & Sessions Judge, Jalandhar. However, learned counsel submitted that still to be on the safer side, the petitioner moved an exemption application through her counsel on the said date which was allowed. Thereafter, the case was adjourned to 23.02.2022, however, on account of some miscommunication between the petitioner and her counsel before the trial Court, she noted down a wrong date of hearing and thus, could not appear before the trial Court on the said date. Learned counsel has urged that the absence of the petitioner was on account of genuine reasons and not intentional and in case the order dated 23.02.2022 was not set aside, grave prejudice would be caused to her. Learned counsel submits that the petitioner undertakes to appear on each and every date of hearing before the trial Court.

Per contra, learned State counsel has opposed the prayer and submissions made by the counsel opposite by contending that the petitioner absented herself on as many as three dates of hearing and as such she did not deserve any leniency from this Court.

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

It is evident from the orders dated 14.01.2022 (Annexure P-3) and 31.01.2022 (Annexure P-5), circulated by the learned District & Sessions Judge, Jalandhar that the Courts were functioning under restrictive mode ever since 04.01.2022 on account of outbreak of pandemic COVID-19. Therefore, the petitioner could not be faulted with for her non-appearance on 21.01.2022 and 04.02.2022. Furthermore, the petitioner failed to appear before the trial Court on 23.02.2022 due to some miscommunication between her and her counsel. In these circumstances, no malafides can be attributed to the petitioner. Accordingly, the instant petition is allowed and the impugned order dated 23.02.2022 (Annexure P-4) is set aside.

(MANJARI NEHRU KAUL)
JUDGE

January 16, 2023
rps

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