

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

CRM-M-10549-2023 (O&M)
Date of Decision:- 21.3.2023

Swaranjit Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sant Pal Singh Sidhu, Advocate for the petitioner.

Mr. Luvinder Sofat, DAG, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner assails order dated 30.1.2023 (Annexure P-4) passed by the Special Court, SAS Nagar, Mohali vide which bail granted to the petitioner has been cancelled on account of absence of the petitioner.
2. The petitioner Swaranjit Kaur alongwith another 10 accused is facing trial before the Special Court, SAS Nagar, Mohali in a case arising out of FIR No. 6 dated 8.6.2017 registered under Sections 420, 465, 467, 468, 471, 506/120B IPC and Sections 13(1)(d), 13(2) of the Prevention of Corruption Act, 1988 at Police Station Vigilance Bureau, Flying Squad-I, District SAS Nagar, Mohali.
3. The petitioner had been released on bail vide order dated 25.9.2017 (Annexure P-2) passed by the trial Court and had been appearing before the trial Court. However, the petitioner Swaranjit Kaur did not appear before

the trial Court on 30.1.2023. An application seeking her exemption was filed by co-accused Surinderpal Singh, who is none-else but real son of Swaranjit Kaur, wherein it was stated that Swaranjit Kaur shall not raise any objection in case evidence is recorded in her absence but in the presence of her counsel.

4. On 30.1.2023, when PW-62 Arjun Singh and PW-8 Dharminder Singh appeared for getting their statements recorded, the trial Court asked Surinderpal Singh to bring the counsel for accused Swaranjit Kaur so that the evidence of the PWs present may be recorded but he did not bring the counsel. The trial Court had been directed by this Court vide order dated 27.9.2022 passed in CRM-M-23331-2019 to conclude the trial within 6 months and had been making efforts for the same. The trial Court, while observing that the PWs had come present consecutively on more than five occasions and that Swaranjit Kaur is habitual of seeking exemption having sought exemptions on more than 70 occasions observed that the petitioner Swaranjit Kaur was trying to act smart by moving exemption application and not ensuring the presence of her counsel, though her son (co-accused) was very much present in the Court, who had moved application on her behalf and observed that Swaranjit Kaur was intentionally trying to delay the trial and consequently finding no justification to grant exemption from personal appearance dismissed the application of Swaranjit Kaur and cancelled her bail vide impugned order dated 30.1.2023 (Annexure P-4).
5. The learned counsel for the petitioner has submitted that the petitioner is an aged lady and that the trial Court ought to have taken a lenient view in the matter and instead of cancelling the bail, should have granted exemption to the petitioner from her personal appearance.

6. Opposing the petition, the learned State counsel submitted that it is a case where more than 10 persons have been arrayed as accused and a large number of witnesses, out of which 76 have already been examined, have been cited and that although the High Court had ordered for expediting conclusion of trial which was pending since the last more than 5 years, the accused had been resorting to dilatory tactics either by way of filing application under Section 311 Cr.P.C. or by filing transfer application against the Presiding Officer and when the said efforts failed, the petitioner had chosen not only to herself remain absent but even her counsel chose not to appear intentionally. The learned State counsel has submitted that the trial Court, which has been making all efforts to conclude the trial expeditiously, was constrained to segregate the trial of the petitioner on account of her absence and as such, having regard to the conduct of the petitioner, no case for setting aside the impugned order is made out.
7. This Court has considered rival submissions addressed before this Court.
8. It is no doubt correct that the petitioner is an aged lady. The trial Court has been considerate enough in having granted exemptions from personal appearance to the petitioner on more than 70 occasions. However, in such a scenario, the accused is also expected to cooperate with the proceedings of trial and not to cause any hindrance in the same. In the present case, the petitioner was not present on 30.1.2023 and consequently, an application was moved by her son, who is a co-accused, seeking exemption from personal appearance wherein it has been stated that Swaranjit Kaur shall not raise any objection in case evidence is recorded in her absence but in the presence of her counsel but later even the counsel did not choose to appear to cross-examine the witnesses, who were present in the Court for the 6th

time. The aforesaid conduct clearly shows that it is a case of wilful absence of the petitioner.

9. Apart from wilful absence, the conduct of the petitioner in not coming forward to cross-examine the witnesses on various occasions leading to recording of their cross-examination as 'Nil' and later filing an application under Section 311 Cr.P.C. shows that an all out effort is being made by the petitioner to delay the trial. In fact, even the complaints are being filed against the Presiding Officer. The petition for transfer of case had also been filed, which has been dismissed upto the Hon'ble Supreme Court. All the facts coupled together clearly shows that it is a case of deliberate absence on part of the petitioner and consequently, this Court does not find any infirmity in order dated 30.1.2023 (Annexure P-4) vide which the bail as granted to the petitioner has been cancelled.
10. However, in case the petitioner surrenders before the trial Court within 3 days from today and moves an application for grant of regular bail, the trial Court shall consider the feasibility of disposing of such application expeditiously, preferably within a period of 3 days of filing of such application, provided the petitioner undertakes before the trial Court to fully cooperate with the trial.
11. Since, it has been informed that the trial of the petitioner already stands segregated on account of petitioner's absence, it shall be open to the trial Court to either proceeds separately consequent upon the segregation or even to consider amalgamating the same, in case so required for the sake of convenience. In case, the trial Court chooses to amalgamate the segregated trial again with the main trial, the witnesses which may have been examined

post-segregation in the absence of the petitioner in the main trial be recalled for their examination in the presence of the petitioner.

12. The petition stands dismissed accordingly.

21.3.2023
kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No