

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

126

CRM-M-14229-2023 (O&M)

Date of decision: 20.03.2023

VINOD KUMAR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Manjinder Singh Saini, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

Present petition has been filed under Section 482 CrPC for quashing of order dated 28.10.2022 vide which the bail bonds of the petitioner were forfeited and the non-bailable warrants of the petitioner was issued in case FIR No.0191 dated 16.11.2021 under Section 22 of NDPS Act, registered at Police Station Bullowal, District Hoshiapur.

Learned counsel contends that the petitioner was granted interim bail vide order dated 13.12.2021 on furnishing his bail bonds in the sum of Rs.50,000/- with one surety in the like amount, in a case of non-commercial quantity of contraband alleged to have been recovered from the petitioner. He appeared before the Court on 31.05.2022 and the challan was presented. However, the petitioner was unable to appear on 28.10.2022 on account of the fact that he had noted down the wrong date, leading to cancellation of his bail and forfeiture of his bail/surety bonds to the State and issuance of non-bailable warrants for 16.12.2022. Thereafter, he had filed an anticipatory bail before the trial Court on 19.12.2022, wherein he was directed to surrender within 7 days and

in the event of doing so, he was to be released on bail. Since, the petitioner was unable to arrange for the bail/surety bonds within the period as granted by the learned trial Court, on 01.03.2023, fresh non-bailable warrants were issued for 25.05.2023. 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 to the petitioner to surrender before the learned trial Court. 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. Manipal Singh Atwal, DAG Punjab, 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 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.

The present petition has been filed on 15.03.2023, and non-bailable warrants have been issued for 25.05.2023, which reflects the bona fide of the petitioner inasmuch as that he is keen to join the proceedings.

Adverting to the facts of the present case that on account of the fact

that he had noted the wrong date, thus, he could not appear before the trial Court which appears to be justified explanation. 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 orders referred to above, the impugned order dated 28.10.2022, Annexure P-4 is set aside subject to the petitioner surrendering before the trial Court on or before the date fixed before the trial Court and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail subject 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

March 20, 2023

M.Kamra

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No