

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

120

CRM-M-18808-2023 (O&M)
Date of decision: 19.05.2023

Ayush Jain

....Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Viren Jain, Advocate
for the petitioner

Mr. Manipal Singh Atwal, DAG, Punjab

Mr. Tarannum Madaan, Advocate
for respondent No. 2-complainant

AMAN CHAUDHARY. J.

1. The present case is listed for 07.07.2023 but is taken up on Board today itself on request of learned counsel for the petitioner on the ground of serious medical health condition of the petitioner.
2. The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 11.10.2022 (Annexure P-8), passed by learned Chief Judicial Magistrate, Jalandhar, whereby the bail order of the petitioner was cancelled, bail/surety bonds were forfeited to the State and non-bailable warrants were issued against the petitioner.

3. Learned counsel contends that the petitioner had been granted anticipatory bail vide order dated 24.08.2020. Thereafter, the challan was presented and he was granted regular bail vide order dated 02.08.2022 whereafter he appeared regularly on two consecutive dates i.e. 01.09.2022 and 21.09.2022 and the case was adjourned to 11.10.2022. On the said date, he was unable to cause appearance on account of the fact that he was to undergo an appendicitis operation. The exemption application that was filed through his counsel was not taken on record on account of which bail bonds and surety bonds were cancelled and forfeited to State and non bailable warrants were issued against him. Medical record of the petitioner is annexed as Annexure P-10. He, however, submits that 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 her arguments learned counsel 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 09.09.2022 and CRM-M-36490-2022, **Major Singh vs. State of Punjab**, decided on 15.9.2022.

4. Notice of motion.

5. Learned State counsel opposes the petition by submitting that the impugned order has been rightly passed by the learned trial Court.

6. Heard.

7. 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.

8. Adverting to the facts of the present case inasmuch as the petitioner, who appeared on two consecutive dates but due to his operation of appendicitis

could not appear but he filed an exemption application which was not taken on record, leading to the passing of the impugned order, which appears to be justified explanation of absence, fortified by medical record, Annexure P-10. 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.

9. In view of the facts and circumstances of this case and the judgments referred to above, the impugned order dated 11.10.2022 (Annexure P-8), passed by learned Chief Judicial Magistrate, Jalandhar, is set aside, subject to deposit of Rs.10,000/- with the District Bar Association, Jalandhar. The petitioner is directed to surrender before the trial Court on or before 30.05.2023 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.

10. 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

19.05. 2023
Mehak

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