

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

282+118

CRM-27238-2023 in/and
CRM-M-21005-2023
Date of decision: 06.07.2023

Sukhchain Singh

....Applicant/Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Rakesh Kumar, Advocate for the applicant/petitioner
Ms. Himani Arora, AAG, Punjab

AMAN CHAUDHARY. J.

CRM-27238-2023

For the reasons mentioned in the application, the same is allowed subject to all just exceptions. Annexures P-6 and P7 are ordered to be taken on record.

CRM-M-21005-2023

1. The present petition has been filed under Section 482 CrPC for quashing of the impugned order dated 30.03.2022 (Annexure P-4) and 02.06.2022 (Annexure P-5) passed by Special Court, Kapurthala, in case FIR No.69 dated 31.07.2021, registered under Section 22 of the NDPS Act, at Police Station Dhilwan, District Kapurthala, whereby the bail orders of the petitioner were cancelled and his personal bonds were forfeited to the State.

2. Learned counsel contends that the petitioner, a poor person and earns his livelihood by doing labour work, could not appear before the trial Court as he had noted the wrong date 01.04.2022 instead of 30.03.2022 and on that date his bail orders, bail bonds and surety bonds were cancelled and forfeited to the State and was ordered to be summoned through non-bailable

warrants for 02.06.2022. On even date, the same were received back unexecuted and he was ordered to be summoned through proclamation for 31.08.2022. In the meantime, another FIR was lodged against the petitioner as well his family on 19.06.2022, wherein he was granted anticipatory bail by this Court vide order dated 17.05.2023 (Annexure P-6). The absence of the petitioner is neither wilful nor deliberate and on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the learned trial Court even if the same is subject to costs. Reliance is placed on the the orders of this Court 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, CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.09.2022, and **Shinda Singh vs. State of Punjab**, CRM-M-48122-2022, decided on 17.10.2022,.

3. Learned State counsel opposes the same by submitting that impugned orders are legal and valid and have been rightly passed by the trial Court on account of non-appearance of the petitioner.

4. Heard.

5. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

6. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appears to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. 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 was not wilful 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 in 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.

7. In view of the afore-referred orders and the facts and circumstances of the case, the impugned orders dated 30.03.2022 and 02.06.2022 (Annexure P-4 and P-5 respectively) are set aside, subject to surrender by the petitioner before the trial Court and depositing Rs.5,000/- with the District Bar Association, Kapurthala, 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 an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

8. 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

July 06, 2023
dharamvir

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