

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

(125)

CRM-M-25456 of 2023
DATE OF DECISION:-18.05.2023

Gurwinder Kaur @ Gurbinder Kaur

...Petitioner

vs.

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Deepak Kaushal, Advocate, for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

HARKESH MANUJA, J.

(1) By way of present petition filed under Section 482 of the Code of Criminal Procedure, 1973, petitioner prays for quashing the orders dated 24.01.2023 (Annexure P-3) and 17.04.2023 (Annexure P-4) passed by the Court of Learned Additional Sessions Judge, Amritsar, in case FIR No.44 dated 23.03.2019 registered under Sections 307, 148, 149 IPC and Sections 25, 27 Arms Act 1959 at PS Mehta, District Amritsar (Annexure P-1)

(2) Having been implicated in FIR No.44 dated 23.03.2019 registered under Sections 307, 148, 149 IPC and Sections 25, 27 Arms Act 1959 at PS Mehta, District Amritsar, petitioner was granted concession of pre-arrest bail by this Court vide order dated 08.01.2020 passed in CRM-M-41932-2019 and thereafter, she continued appearing before the Court below but for 24.01.2023, when she could not appear on account of some medical problem resulting into issuance of non-bailable warrants against her followed by order dated 17.04.2023 vide which,

proclamation under Section 82 Cr.P.C. was even issued.

(3) Impugning the aforesaid two orders, learned counsel for the petitioner submits that non-appearance of the petitioner on 24.01.2023 was wholly unintentional and for *bona fide* reason as the petitioner was on her family way and gave birth to a child on 28.02.2023. Learned counsel further submits that petitioner is ready to join the proceedings before the trial Court and would surrender and furnish her fresh bail bonds/surety bonds in case another chance is afforded to her.

(4) On the other hand learned State counsel has vehemently opposed the prayer made in the petition while submitting that petitioner has been deliberately avoiding the process of Court as this was her second consecutive occasion when she failed to appear before it.

(5) I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

(6) Once the petitioner was on her family way and the same was the cause of her non-appearance, the Court below was required to be extra sensitive having adopted humanitarian approach ; rather than going hyper technical while passing the impugned order.

(7) In view of the discussion made hereinabove, the petition is allowed. The impugned orders dated 24.01.2023 (Annexure P-3) and 17.04.2023 (Annexure P-4) passed by the Court below are set aside. Petitioner is granted liberty to appear before the trial Court within a period of 15 days from today and furnish fresh bail bond/surety bond to the satisfaction of the trial Court. Petitioner shall continue to appear before the Court below unless granted exemption specifically for the justified reasons.

(8) The aforesaid order shall however, be subject to payment of costs of Rs.5,000/- to be deposited by the petitioner with the State Legal Services Authority, Punjab, within a period of two weeks from today.

18.05.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned :	Yes/No
whether reportable :	Yes/No