

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

125

CRM-M-26053-2023 (O&M)

Date of decision: 22.05.2023

Nishan Donchak @ Bansingh

....Petitioner

Versus

State of Haryana and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Punit Malik, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 CrPC allowing the petitioner to appear before the trial Court and furnish fresh bail bonds and surety bonds in pending trial complaint case bearing No.4407 dated 13.12.2017 titled as “Nitin Singla vs. NR Layer Poultry Farm and Another”, under Sections 138 and 142 of NI Act.

2. Learned counsel contends that the petitioner was granted regular bail vide order dated 12.01.2021, thereafter, in October, 2022, both the parties settled the matter amicably with the intervention of Panchayat for an amount of Rs.9 lacs to be payable in 6 equal instalments of Rs.1.5 lac each, upon which the complainant had agreed to withdraw the present complaint. The petitioner being under the impression that the case being withdrawn, was unable to appear before the trial Court on 31.12.2022, which led to cancellation of his bail and forfeiture of his bail/surety bonds to the State as well as issuance of non-bailable warrants for 25.11.2022. Thereafter, he had shifted his residence for the treatment of his father, who is suffering from prostate cancer, therefore was not served. He was declared proclaimed offender vide order dated 14.03.2023 (Annexure P-5) and an FIR

under Section 174A IPC was registered on 22.03.2023. Submissions made are that the absence of the petitioner is neither wilful nor deliberate and is on account of the reason aforesaid. Further 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. In support of his 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.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Addl. AG Haryana, 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.

5. Since no order that may prejudice the interest of the private respondent is proposed to be passed, therefore, there is no necessity of issuing notice to him to seek his response at this stage.

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, as also to ensure finalization of the proceedings.

8. Adverting to the facts of the present case that on account of him being under the impression of the case being withdrawn, thus, he could not appear before the trial Court 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 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 being 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 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 afore-referred orders and the facts and circumstances of this case, the petitioner is directed to surrender before the trial Court on or before 02.06.2023 and deposit Rs.5,000/- with the trial Court, which shall further be disbursed to the complainant forthwith 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 also surrender his passport and will not leave the country without prior permission of the Court and 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

May 22, 2023
M.Kamra

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