

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

119

CRM-M-27046-2023 (O&M)

Date of decision: 26.05.2023

Hardeep Singh @ Gandhi

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Munish Raj Chaudhary, Advocate for the petitioner

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 CrPC for quashing of the impugned order dated 09.12.2022 (Annexure P-2) passed by learned JMIC, Barnala in case FIR No.0379 dated 19.09.2019, registered under Section 61 of Punjab Excise Act, 1914 at Police Station City Barnala, District Barnala, 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 was granted regular bail, whereafter, he continued to appear before the trial Court regularly except on 09.12.2022, on which date he had to leave the State of Punjab and go to Chhattisgarh to earn his livelihood, being a combine driver. He remained there for 20-25 days and was unable to contact with his counsel for filing application for exemption from personal appearance, 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 12.01.2023. The absence of the petitioner is neither wilful nor deliberate and is on account of the reason aforesaid. Further that the petitioner 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, titled as **Major Singh vs. State of Punjab**, decided on 15.9.2022.

3. Notice of motion.

4. 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.

5. Heard.

6. 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.

7. Adverting to the facts of the present case that on account of having gone to Chhattisgarh to earn his livelihood and remaining there for 20-25 days, the petitioner could not appear before the trial Court, appears to be a 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 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.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 09.12.2022, Annexure P-2 is set aside subject to surrender by the petitioner before the trial Court on or before 07.06.2023 and depositing Rs.5,000/- with the District Bar Association, Barnala 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.

9. 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 26, 2023
M.Kamra

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