

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

278

CRM-M-33087-2022

Date of decision: 10.08.2023

Karamjit Kaur @ Kirna

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: None for the petitioner.

Ms. Himani Arora, AAG, Punjab.

AMAN CHAUDHARY, J

1. The present petition has been filed under Section 482 CrPC for quashing of order dated 08.07.2022 passed by Ld. Addl. Sessions Judge, Sangrur, vide which the bail bonds/surety bonds stands cancelled and non bailable warrants have been issued against the petitioner.
2. It is averred in the petition that petitioner had been granted bail on 04.02.2021. Though the petitioner continued to appear before the trial Court, but only on 08.07.2022 she could not appear on account of fact that the learned counsel had noted the next date of hearing as 18.07.2022. Her absence is neither wilful nor deliberate.
3. Learned State counsel, on instructions from ASI Harbax Singh, submits that in terms of order dated 29.07.2022 passed by this Court, the petitioner had surrendered before the trial Court on 02.08.2022 and was granted bail.
4. The order dated 29.07.2022 passed by this Court, reads thus:-

“Present petition has been filed by the petitioner seeking setting aside of order dated 8.7.2022 passed by the Court of learned Additional Sessions Judge, Sangrur in criminal case titled State of Punjab v. Sikander Singh

and others in FIR No.20 dated 26.2.2019 under Section 302 read with Section 34 IPC Police Station Sadar Ahmedgarh, District Malerkotla whereby the bail order of the petitioner was cancelled and she was ordered to be summoned through nonbailable warrants of arrest on account of her absence on that date.

Counsel for the petitioner submits that absence of the petitioner before the trial Court on 8.7.2022 was not intentional and the reason for her absence was that she wrongly noted down next date of hearing as 18.7.2022 instead of 8.7.2022. He further submits that earlier to 8.7.2022, the petitioner never got absented without prior intimation to the Court concerned. He further submits that the petitioner is ready to join the proceedings before the trial Court.

Notice of motion.

Ms. Samina Dhir, DAG, Punjab, accepts notice on behalf of the State and prays for time to seek necessary instructions and has not refuted the fact that as per impugned order dated 8.7.2022 (Annexure P4), the petitioner was on bail as on that date and she prays for time to seek specific instructions regarding the assertions made by the counsel for the petitioner.

List on 1.12.2022

In the meantime, the petitioner is directed to appear before the trial Court on or before the next date fixed there and on her appearance, she is directed to be released on interim bail by the said Court to its own satisfaction till the next date fixed in the present petition subject to costs of Rs.7500/- to be deposited by the petitioner with District Legal Services Authority, Sangrur.”

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, appear 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 in terms of order dated 29.07.2022, she has already surrendered before the trial Court and was granted bail, this Court finds that the ends of justice would be adequately met if the present petition is allowed.

7. In view of the afore-referred order and the facts and circumstances of the case, the impugned order dated 08.07.2022 is set aside. However, she is directed to furnish an undertaking by way of an affidavit that she will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. She 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.

10.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No