

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

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CRM-M-31243-2023

Date of decision: 03.07.2023

Punjab Singh

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Balbir Singh Jaswal, Advocate
for the petitioner

AMAN CHAUDHARY. J.

1. The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned order dated 04.01.2023 (Annexure P-17), passed by the Chief Judicial Magistrate, Amritsar, whereby the petitioner was declared proclaimed person in case FIR No. 88 dated 20.07.2018 registered under Section 61 of the Punjab Excise Act, 1914 at Police Station Kamboj, District Amritsar.

2. Learned counsel contends that the petitioner was released on regular bail vide order dated 30.07.2018, Annexure P-2 by the Judicial Magistrate 1st Class, Amritsar. After the challan was presented and charges were framed, the petitioner continued to appear till 03.01.2020, however, due to outbreak of Covid-19 pandemic, he and his co-accused could not appear and were declared proclaimed offender though they were never served through proclamation. The reasons for his non appearance is that his learned counsel had advised that as and when they will be required to appear, an intimation to that effect shall be made to them. He submits that it was neither deliberate nor wilful. In support of his arguments learned counsel for the petitioner 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 15.09.2022.

3. The petitioner is ready and willing to join the proceedings, and prays that one opportunity may be granted to surrender before the learned trial Court, which may even be, subject to payment of costs.

4. Notice of motion.

5. On asking of the Court, Mr. Manipal Singh Atwal, DAG, Punjab appears on behalf of the State and opposes the petition by submitting that the impugned order has been rightly passed by the learned trial Court.

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 so as to ensure finalization of the proceedings.

8. Adverting to the facts of the present case that 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 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 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 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.

9. In view of the facts and circumstances of this case and the judgments referred to above, the impugned order dated 04.01.2023, Annexure P-17, is set aside, subject to deposit of Rs.10,000/- with the Bar Association, District Court, Amritsar. The petitioner is directed to surrender before the trial Court on or before 17.07.2023 and furnish his fresh bail/ surety bonds. On so doing, the trial Court shall release him on bail by imposing surety to its satisfaction. He is also directed to furnish an undertaking by way of his 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 or 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

03.07.2023
Mehak

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