

CRM-M-32638-2023

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

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Date of decision:27.07.2023

Sukhchain Singh and another

...Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Kulwinder Singh Dhillon, Advocate,
for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present petition is to the order dated 02.05.2023 (Annexure P-6) vide which the petitioners have been declared proclaimed persons in case bearing FIR No.174 dated 07.09.2020, registered at Police Station Chheharta, District Amritsar, under Sections 336, 323, 148, 149 and 506 IPC and Section 25 of the Arms Act, 1959.

Learned counsel for the petitioners contends that after having been granted the concession of bail, the petitioners had been regularly appearing before the trial Court; that however on 21.07.2022, the petitioners could not appear before the trial Court for the reason that they had wrongly noted down the date of hearing as 21.08.2022 instead of 21.07.2022; that due to non-appearance of the petitioners on 21.07.2022, their bail was cancelled and warrants of arrest had been issued against them, and that ultimately, they were declared proclaimed persons.

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Learned counsel for the petitioners further contends that vide CRM-M-1988-2023, the petitioners had approached this Court for quashing the order dated 21.07.2022, and that vide order dated 19.01.2023 passed by a Coordinate Bench, the aforesaid petition had been disposed of with a direction to the petitioners to surrender before the trial Court/Duty Magistrate within a period of 10 days. It is further submitted that the petitioners could not comply with the aforesaid order dated 19.01.2023 for the reason that petitioner No.1-Sukhchain Singh was involved in FIR No.12 dated 14.01.2023, under Sections 216, 222, 224, 353 and 186, registered at Police Station Chheharta, District Amritsar, whereas petitioner No.2-Gurdev Singh @ Rohit was arrested on 18.01.2023 in FIR No.10 dated 18.01.2023, Police Station Sultanwind. It is further submitted that non-compliance of the order dated 19.01.2023 was not intentional, rather it was for the reasons as stated above. It is further submitted that the petitioners are ready to surrender before the concerned Court and to face the trial.

Notice of motion.

On the asking of this Court, Mr. C.L.Pawar, Addl. A. G. Punjab, accepts notice on behalf of the respondent-State, and submits that the petitioners had been absconding from the Court of law and thus, they do not deserve any concession.

I have heard the learned counsel for the parties.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua the

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accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

The petitioners are ready to face the trial. They are not required for custodial interrogation or investigation purposes. In such circumstances, this Court finds that no useful purpose would be served by sending the petitioners to custody.

Keeping in view the above facts, but without expressing any opinion on the merits of the case, the impugned order dated 02.05.2023 (Annexure P-6) along with all the consequential proceedings arising therefrom, is hereby set aside, subject to depositing the costs of Rs.20,000/- by both the petitioners (Rs.10,000/- each) with the District Legal Services Authority, Amritsar. The petitioners are directed to surrender before the trial Court/Duty Magistrate, within 10 days from today and on doing so, they shall be released on bail, subject to them furnishing fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

27.07.2023

parveen kumar

**(HARNARESH SINGH GILL)
JUDGE**

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No