

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-33509-2023 (O&M)
Date of decision: 17.07.2023

Ajay Kumar ...Petitioner
Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Kuldeep Sharma, Advocate for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present petition is to the order dated 14.06.2023 and 04.07.2023 (Annexures P-3 and P-4) passed by the learned Chief Judicial Magistrate/ACJ, Jind, in complaint No.686 of 2013 under Section 14(2A) of the Employees Provident Fund and Miscellaneous Provisions Act, 1952, read with Para 76(b) & (C) of the Employees Provident Fund Scheme, 1952.

Learned counsel for the petitioner contends that the petitioner was released on bail in the aforementioned complainant case and thereafter, he had been regularly appearing before the trial Court, but somehow he could not appear before it on 14.06.2023, due to unavoidable circumstances, following which his bail was cancelled and his bail bonds and surety bonds were forfeited to the State and non-bailable warrants had been issued against him; that absence of the petitioner was not intentional and *mala fide*, and that the petitioner is now ready to appear before the trial Court. He very fairly submits that earlier, the petitioner was declared as a proclaimed person vide order dated 07.11.2016, but thereafter, he was regularly appearing before the learned trial Court.

Notice of motion.

On the asking of this Court, Mr. Rupinder Singh Jhand, Addl. AG Haryana , accepts notice on behalf of respondent No.1-State.

I have heard the learned counsel for the parties.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on a solitary date i.e. 14.06.2023, due to unavoidable circumstances and therefore, his non-appearance on the said date was unintentional.

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 him. The absence of the petitioner before the Court below appears to be non-intentional. If the accused shows his sincere intention and desire to appear before the Court, then it would be justified to protect him from being arrested.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioner to surrender before the trial Court/Duty Magistrate, within 15 days from today, subject to him depositing the costs of Rs.10,000/- with the District Legal Services Authority, Jind. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

17.07.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No