

IN THE HIGH COURT OF PUNJAB AND HARYANAAT  
CHANDIGARH

131

CRM-M-36446-2023 (O&M)

Date of Decision: 31.07.2023

RAMANDEEP SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. RS Sidhu, Advocate  
for the petitioner.

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**HARNARESH SINGH GILL, J.(Oral)**

Prayer in this petition is for setting aside the impugned order dated 03.12.2022 (Annexure P-6) passed by the learned Chief Judicial Magistrate, in FIR No.258 dated 17.10.2020, registered under Sections 61, 78(2)/1/14 of the Punjab Excise Act, 1914 at Police Station Kotwali, Patiala, District Patiala, vide which the petitioner has been declared as a proclaimed person.

Learned counsel for the petitioner submits that the petitioner was granted regular bail by the learned Additional Sessions Court, Patiala, on 14.12.2020 and since then, he was regularly appearing before the trial Court; that the challan was presented on 18.10.2021 and the case was adjourned to 24.01.2022; that, due to Covid-19 pandemic, the Court was not functioning and accordingly, on 24.01.2022, the case was adjourned for 08.04.2022.; that on 08.04.2022, the notice was issued to the petitioner for his appearance on 26.07.2022 and that on 26.07.2022, copy of the challan was supplied to the petitioner and case was adjourned

to 16.09.2022.

Learned counsel for the petitioner submits that on 16.09.2022, the petitioner could not appear before the Court below and accordingly, his surety/bail bonds were cancelled and forfeited to the State, and non-bailable warrants against the accused-petitioner were issued for 30.09.2022. He further submits that the petitioner was under impression that a notice will be issued for any appearance in future, as was issued by the Court below on 08.04.2022 and thus, the non-appearance of the petitioner was neither intentional nor willful.

Notice of motion.

On the asking of this Court, Mr. CL Pawar, Additional AG Punjab, accepts notice on behalf of the respondent-State.

On 24.01.2022, the following orders was passed by the learned Chief Judicial Magistrate:-

*'..... The present case do not fall in the category of cases allowed to be taken up as per office order No.396 dated 17.01.2022 passed by the Ld. District & Sessions Judge, Patiala.*

*None has appeared on behalf of accused and presence of accused is deemed to be exempted due to sudden surge of Covid-19 cases. Adjourned to 08.04.2022 for awaiting appearance of the accused'.*

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. 16.09.2022. The non-appearance of the petitioner was neither intentional nor willful.

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 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.

Though the petitioner absented himself from the Court proceedings, yet he is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

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 concerned, within 15 days from today, subject to him depositing the costs of Rs.10,000/- with the concerned District Legal Services Authority.

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 Chief Judicial Magistrate/trial Court/Duty Magistrate concerned.

**31.07.2023**

Aman Jain

**(HARNARESH SINGH GILL)****JUDGE**

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