

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-36587-2023 (O&M)

Date of decision: 19.09.2023

Ravi Gupta

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr.Ketan Chopra, Advocate for petitioner.

Mr.Mohit Thakur, A.A.G., Punjab.

ARUN MONGA, J. (ORAL)

Present petition has been filed under Section 482 Code of Criminal Procedure for quashing of impugned orders dated 05.09.2022 and 10.01.2023 (Annexure P-3 and P-4 respectively) passed by the learned Additional Sessions Judge, Ludhiana, in Case No.SC-474 of 2021, arising out of by FIR No.214, dated 18.08.2019, registered under Section 379-B and 34 of the IPC, at Police Station Moti Nagar, Ludhiana, vide which non-bailable warrants of petitioner were issued and his bail bonds were forfeited to the State and proclamation was issued under Section 82 Cr.P.C.

He also seeks quashing of order dated 13.03.2023 (Annexure P-5) and 29.04.2023 (Annexure P-6) vide which petitioner was declared proclaimed person and separate proceedings under Section 446 and 83 Cr.P.C. were initiated against the petitioner, alongwith all subsequent proceedings emanating therefrom.

2. Learned counsel petitioner submits that FIR in question has been registered against the co-accused Prem Singh and present petitioner on the basis of secret information that they are habitual of committing snatching of mobile phones from the

public on motorcycle and today (on 18.08.2019) they may be apprehended. Accordingly co-accused and petitioner was apprehended and FIR was registered.

2.1. He next submits that petitioner was granted the concession of regular bail on 23.10.2019 by the court of Ld. Additional Sessions Judge, Ludhiana vide Annexure P-1. Since then, petitioner was regularly appearing before that the trial Court and never absented without seeking exemption.

2.2. He further contends that on 05.09.2022 petitioner was suffering from fever/cold and accordingly he informed his counsel to move an appropriate application for his exemption before the trial Court, but the counsel failed to move any exemption application on behalf of the petitioner on 05.09.2022. Due to his non-appearance vide order dated 05.09.2022 (Annexure P-3) his non-bailable warrants were issued for 10.01.2023. Thereafter on 10.01.2023 (Annexure P-4) petitioner's bail order was ordered to be cancelled and proclamation u/s 82 Cr.P.C. was issued.

2.3. Learned counsel for the petitioner further submits that petitioner was on bail in the present case. However he was falsely implicated in another FIR No.256 of 2022 under section 379-B (2) and 34 of IPC registered at P.S Moti Nagar Ludhiana and subsequently he was arrested on 11.11.2022 in the said case. Since then petitioner is in custody in FIR No. 256 of 2022. Therefore, he could appear before the trial Court in present case after 11.11.2022. Due to non-appearance in the present case the bail bonds of the petitioner were cancelled and he was declared as proclaimed person vide order dated 13.03.2023 (Annexure P-5) and further separate proceedings under Section 446 and 83 of Cr.P.C. were directed to be issued against him vide order dated 29.04.2023 (Annexure P-6).

2.4 He further submits that petitioner immediately on coming to know that he has been declared as proclaimed person applied for grant of regular bail which was dismissed vide order dated 19.04.2023 (Annexure P-7).

2.5. Learned counsel for the petitioner submits that non-appearance of the petitioner was not intentional, but was due to the facts and circumstances mentioned above.

3. Learned State counsel does not deny the aforesaid fact of the petitioner being in judicial custody in the aforesaid other case since 11.11.2022. He has produced in Court a report dated 10.08.2023 and the relevant paragraph thereof is reproduced hereinbelow:

"7. That, however, as the petitioner was in custody since 11.11.2022 and is still in custody in the above noted FIR and therefore proclamation proceedings were wrongly initiated on 10.01.2023 and thus Application for recalling the said order dated 13.03.2023 Annexure P-5 declaring the petitioner a Proclaimed Person has been moved by the local police which is now under consideration before the Ld. Trial Court. Therefore the present petition has been rendered infructuous."

4. *Apropos* on a Court query learned counsel for the petitioner submits that the petitioner admittedly being in judicial custody on relevant dates, it was beyond his control to present himself before the trial Court.

5. I am of the view that it was the duty of the State to produce the petitioner and learned trial Court as also the local police ought to have apprised the Court of the reason for the non-appearance of the petitioner at the time of its passing the impugned order. That was not done by the local police/prosecution. Petitioner should not suffer for their fault.

6. Accordingly, the petition is allowed. Aforesaid orders dated 05.09.2022, 10.01.2023, 13.03.2023 and 29.04.2023 (Annexure P-3, Annexure P-4, Annexure P-5 and Annexure P-6 respectively) passed by the learned Additional Sessions Judge, Ludhiana, along with all consequential proceedings arising therefrom against the petitioner, are quashed and surety furnished by the petitioner before the trial Court is restored to its original status.

7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

19.09.2023
'D'vir

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