

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

(238)

CRM-M-37063-2023

Date of decision: - 04.09.2023

Anil Joshi and another**....Petitioners****Versus****State of Punjab and another****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Manbir Singh Batth, Advocate, for the petitioners.

Mr. Ferry Sofat, Additional Advocate General, Punjab.

VIKAS BAHL, J. (ORAL)

1. This is a petition under Section 482 Cr.P.C. for quashing/setting aside of order dated 20.07.2023 (Annexure P-5), vide which the non-bail warrants have been issued against the petitioners by trial Court in FIR No.206 dated 31.08.2021, registered under Sections 188, 269 and 270 IPC; Section 51 of the Disaster Management Act, 2005 and Section 3 of the Epidemic Diseases Act, 1897, at Police Station Sadar Amritsar, Police Commissionerate, Amritsar, on the ground that the petitioners have failed to put in appearance on 20.07.2023.

2. On 31.07.2023, this Court was pleased to pass the following order:-

“Inter alia contends that in the present case, both the petitioners have moved their respective applications for exemption from appearance on account of the fact that they had gone out of city for personal urgent work but the trial Court has rejected the said

prayer and has issued non-bailable warrants for 09.08.2023. It is further submitted that since, the charges are yet to be framed in the said case, thus, no witness had appeared on 20.07.2023 and has further submitted that the petitioners would appear before the trial Court on or before next date of hearing i.e., on 09.08.2023, in case, they be released on interim bail and they also undertake to appear on each and every date before the trial Court unless their personal appearance is specifically exempted by the trial Court. It is also contended that as far as the registration of FIR under Section 188 of IPC is concerned, same is barred as per law laid down by the Hon'ble Division Bench of this Court in Jiwan Kumar Vs. State of Punjab, reported as 2009(1) RCR (Criminal) 415.

Notice of motion for 14.08.2023.

Till the next date of hearing, the execution of non-bailable warrants issued against the petitioners is stayed.

To be taken up at 12:00 pm.

In the meantime, the petitioners are directed to appear before the trial Court on or before the next date of hearing i.e., on 09.08.2023 and on their appearance, the trial Court is directed to release the petitioners on interim bail on their furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to the petitioners giving an undertaking to the trial Court that they would appear before the trial Court on each and every date unless their appearance is specifically exempted by the Court.

**(VIKAS BAHL)
JUDGE ”**

31.07.2023

3. Thereafter on 18.08.2023, this Court was pleased to pass the following order:-

“Learned counsel for the petitioners has submitted that petitioner No.1 has appeared before the trial Court on 09.08.2023 and has been released on interim bail. It is submitted that petitioner No.2 could not appear before the trial Court since he was suffering from dengue and has stated that petitioner No.2 would appear before the trial Court on or before 24.08.2023.

Adjourned to 25.08.2023.

To be taken up at 11.30 AM.

In the meantime, petitioner No.2 is directed to appear before the trial Court on or before 24.08.2023 and on his appearance, the trial Court is directed to release petitioner No.2 on interim bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to petitioner No.2 giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is specifically exempted by the Court.

August 18, 2023

**(VIKAS BAHL)
JUDGE ”**

4. Learned counsel for the petitioners has submitted that even petitioner No.2 has appeared before the Chief Judicial Magistrate on 22.08.2023 and has referred to the order dated 22.08.2023, which is taken on record and has been marked as 'Mark A'. The relevant portion of the said order is reproduced herein below: -

“In view of the above said order, accused Ranjit Singh is directed to furnish bail bond in the sum of Rs.50,000/- with one surety of the like amount, which have been furnished, accepted and attested. Now, file be put upon 11.9.2023, for the purpose already fixed.

Date of Order: 22.08.2023

**(Aashish Saldi)
Chief Judicial Magistrate
UID No.PB00254”**

5. Learned counsel for the petitioners has stated that the petitioners have complied with the above-said orders dated 31.07.2023 and 18.08.2023 passed by this Court.

6. Learned counsel appearing for the respondent-State has submitted that the petitioners be directed to appear before the trial Court on each and every date unless their appearance is specifically exempted by the Court.

7. Keeping in view the above-said facts and circumstances, more so, the fact that the petitioners in pursuance of the orders dated

31.07.2023 and 18.08.2023 passed by this Court have complied with all the conditions and also undertaken to appear before the trial Court on each and every date unless their appearance is specifically exempted by the Court, the present petition is allowed and the interim orders dated 31.07.2023 and 18.08.2023 are made absolute.

8. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application

September 04, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No