

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-37046-2023 (O&M)

Date of Decision: 31.07.2023

SANJU ALIAS SANJAY

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Jai Shree Kaushik, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for setting aside the impugned orders dated 15.11.2022 and 13.06.2023 (Annexures P-3 and P-5) passed by the learned Judicial Magistrate, 1st Class, Gurugram, in case bearing No.CHI-451-2015 titled as 'State vs. Sanju @ Sanjay' arising out of FIR No.937 dated 02.12.2014, registered at Police Station Gurugram Sadar.

Learned counsel for the petitioner submits that the petitioner was granted regular bail by the learned Additional Sessions Court, Gurugram, on 13.07.2015 and since then, he was regularly appearing before the trial Court and that on one solitary date i.e. 15.11.2022, 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 and notice to his surety under Section 446 Cr.P.C. were issued for 29.05.2023. She further submits that, while issuing proclamation warrants against the petitioner, the provisions of Section 82 Cr.P.C. have not been complied with,

inasmuch as, proclamation warrants were ordered to be issued on 29.05.2023 for 13.06.2023 and thus, the mandatory period of 30 days has not been given.

Learned counsel for the petitioner further submits that, though, till date the petitioner has neither been declared as a proclaimed offender/person nor there is any specific order qua the same, yet the fact remains that a report under Section 83 Cr.PC. with regard to the property of the petitioner has been sought from the SHO concerned. It is contended that non-appearance of the petitioner was neither intentional nor willful.

Notice of motion.

On the asking of this Court, Mr. Rupinder Singh Jhand, Additional AG Haryana, accepts notice on behalf of the respondent-State.

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. 15.11.2022. The petitioner has neither been declared as a proclaimed offender/person nor there is any specific order qua the same. Statutory provisions of Section 82 Cr.PC. has not been complied with.

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 trial Court/Duty Magistrate.

31.07.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No