

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

115

CRM-M-38758-2023
Date of decision: 08.08.2023

Aman Bhardwaj

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 CrPC for setting aside the impugned order dated 07.02.2023 (Annexure P-1) passed by the Additional Sessions Judge, SAS Nagar, Mohali in CRA No.1 of 2019, D.O.I. 04.01.2019 (Annexure P-1) arising from the original complaint being No.NACT-686, D.O.I. 05.11.2016 titled as 'Esha Malik Versus Aman Bhardwaj' (Annexure P-2) whereby bail and surety bonds of the petitioner have been cancelled and non-bailable warrants has been issued.

2. Learned counsel submits that the sentence of the petitioner was suspended by the Appellate Court vide order dated 04.01.2019 (Annexure P-3) whereafter he had not appeared on 07.02.2023 as on the previous date of hearing i.e. on 25.01.2023, an application for exemption from personal appearance was filed which was allowed but a wrong date was noted as

17.03.2023 instead of 07.02.2023. Vide the order of even date, appellate Court cancelled the bail and surety bonds of the petitioner and issued non-bailable warrants for 14.03.2023. The petitioner is a resident of Uttar Pradesh. He is the sole bread earner of his family, consisting of 2 minor children, wife and old-age parents. His absence is neither wilful nor deliberate and on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the learned appellate Court even if the same is subject to costs. Reliance is placed on the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of **Surjit Singh vs. State of Punjab**, CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.9.2022.

3. Notice of motion.

4. Mr. Manipal Singh Atwal, DAG, Punjab, who has appeared on receipt of advance copy of the petition, opposes the same by submitting that the impugned order is legal and valid and has been rightly passed by the appellate Court on account of non-appearance of the petitioner.

5. No order prejudicial to the rights of the private respondent is being proposed to be passed by this Court, thus, there is no requirement for the notice to be issued to her.

6. Heard.

7. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish

the rule of law, as also to ensure finalization of the proceedings.

8. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent upon him to join the proceedings, before the appellate Court, for the culmination of the same. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

9. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 07.02.2023, Annexure P-1 is set aside subject to surrender by the petitioner before the appellate Court on or before 23.08.2023. On furnishing bail/surety bonds, the Court shall release him on bail subject to its satisfaction. He is also directed to submit an undertaking by way of an affidavit that he will appear on each and every date of hearing before the Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

10. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

08.08.2023
Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No