

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

124

CRM-M-37823-2023 (O&M)

Date of Decision: 03.08.2023

AJAY @ BITTU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. VB Godara, Advocate and
Mr. Rajan Singh, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for quashing the order dated 17.05.2023 (Annexure P-4) passed by the learned Additional Sessions Judge, Hisar, vide which the bail/surety bonds of the petitioner was cancelled and forfeited to the State, in FIR No.311 dated 01.08.2019, registered under Sections 302, 303, 307, 323, 325, 147, 148, 149, 109 and 120-B IPC, at Police Station Azad Nagar, Hisar, District Hisar.

Learned counsel for the petitioner submits that the petitioner is a Driver by profession; that the petitioner was granted regular bail by this Court on 11.03.2022 and since then, he was regularly appearing before the Court below; that it was on a solitary date i.e. 17.05.2023, the petitioner could not appear before the Court as he had gone out of station, being Driver and that the petitioner moved an application seeking exemption from his personal appearance, which was declined by the Court below holding that the same was not supported by any affidavit. It

is, thus, contended that since the petitioner had gone out of station, he could not attached affidavit with the application and thus, his non-appearance was neither intentional nor willful, but for the unavoidable reasons, as explained above. He further submits that the trial is at an initial stage.

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. 17.05.2023, as he was out of station and therefore, his non-appearance on the said date was unintentional, but for the unavoidable reasons.

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 allowed and

the order dated 17.05.2023 (Annexure P-4) passed by the learned Additional Sessions Judge, Hisar, is hereby set aside qua the petitioner only, subject to the petitioner depositing the costs of Rs.10,000/- with the concerned District Legal Services Authority

The petitioner is directed to surrender before the trial Court/Duty Magistrate, within 15 days from today and 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.

03.08.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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