

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

121

CRM-M-39328-2023

Date of Decision: 11.08.2023

Chander Mohan alias Chander Mohan Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Ripudaman Singh Sidhu, Advocate
for the petitioner.

VIKAS SURI, J. (Oral)

1. By way of instant petition under Section 482 Cr.P.C., petitioner seeks quashing of order dated 01.06.2022 (Annexure P-2), whereby his bail was cancelled and bail bonds were forfeited; and order dated 05.06.2023 (Annexure P-4), whereby he was declared as proclaimed person, in case FIR No.0201 dated 21.08.2016, under Sections 323, 325, 149, 147, 34 IPC, 1860 and Section 25 (54) of Arms Act, 1959, registered at Police Station Adampur, District Hisar (Annexure P-1).

2. Learned counsel for the petitioner submits that the petitioner is facing trial and was regularly appearing before the trial Court since the year 2016. It is further submitted that on 01.06.2022, petitioner could not appear before the trial Court and his bail was cancelled and bail bonds were forfeited. He submits that the absence of the petitioner was neither intentional nor wilful but due to misunderstanding that he has been granted

permanent exemption from personal appearance vide order dated

08.03.2022. Thereafter, case was adjourned for various dates and ultimately, petitioner was declared as proclaimed person vide order dated 05.06.2023 (Annexure P-4).

3. Learned counsel for the petitioner further submits that on 01.06.2023, bail of his two co-accused, namely Sunil Kumar Machra and Ramdhan Saharan, was also cancelled along with the petitioner by a common order. The said co-accused had approached this Court by filing CRM-M-27022-2023 seeking quashing of order dated 01.06.2022 (Annexure P-3), which petition was allowed vide order dated 28.07.2023 and they were directed to join proceedings before the trial Court. Learned counsel submits that the case of petitioner is also on similar footing. Counsel submits that petitioner is keen to join proceedings and ready to abide by all terms and conditions so imposed by this Court.

4. Notice of motion.

5. Mr. Gurbir S. Dhillon, A.A.G., Haryana, accepts notice on behalf of respondent-State and waives service.

6. Learned State counsel has opposed the submissions made by learned counsel for the petitioner and stated that the trial Court has rightly cancelled the bail of the petitioner and declared him proclaimed person, who failed to appear before the Court numerous dates intentionally to evade the process of law.

7. I have heard counsel for the parties and perused the record.

8. After hearing learned counsel for the parties and perusing the record, it is evident that the petitioner remained absent on 01.06.2022 when

his bail along with two co-accused was cancelled and his bail bonds were forfeited. The reason assigned for absence is that he was under the impression that his personal appearance has been exempted during the pendency of trial vide order dated 08.03.2022.

9. The co-accused of the petitioner, whose case was also on the same lines had approached this Court seeking quashing of order cancelling their bail, have been granted relief vide order dated 28.07.2023. Relevant part of the said order is reproduced hereunder:-

“8. No doubt, learned trial Court has got discretion to cancel the bail, however, it is well settled that before passing such an order, Court is required to issue notice to the accused so as to afford accused an opportunity to explain as to why the bail should not be cancelled. Such course has not been adopted by learned court below in the instant case. In the peculiar premise, in my opinion, learned Court below has committed patent irregularity by not according an opportunity to accused/petitioners to explain their default by first issuing notice as to why their bail bonds be not cancelled. On this ground alone, impugned order to the extent of cancellation of bail deserves to be set aside.

8.1. Moreover, cancellation of bail is a serious matter and can have significant impact on the life of a person. Matters of personal liberty ought not to be taken so lightly and in such mechanical manner as in the case herein.

9. There being sufficient reasons beyond control of the petitioners which caused their default on solitary date of hearing, I am of the view that impugned order cannot be sustained and same is set aside. Earlier bail order stands revived on bail bond and surety bond already furnished by petitioners before learned trial Court. Petitioners are directed to join proceedings before learned trial Court within three weeks from today and shall continue to appear before learned trial Court without default.”

10. Although the reason assigned by the petitioner does not appear to be a reasonable ground for his absence in the trial yet keeping in view the

fact that petitioner is keen to join the proceedings and the impugned order dated 01.06.2022 (Annexure P-2) already stands quashed qua his co-accused, no useful purpose would be served by sending him behind the bars, rather it will be appropriate if he is allowed to join the proceedings before the trial Court.

11. Hence, keeping in view the abovesaid facts, the present petition is disposed of by quashing impugned orders dated 01.06.2022 (Annexure P-2) and dated 05.06.2023 (Annexure P-4) and petitioner is directed to appear before the trial Court on or before 17.08.2023 and shall move an application seeking bail.

12. On his doing so, the Court concerned is directed to admit him to bail subject to his furnishing bail bonds to its satisfaction and proceed with the trial in accordance with law. Petitioner will have protection from his arrest till 17.08.2023.

13. Needless to observe that in case the petitioner fails to comply with the aforesaid direction, he will have no benefit of the protection granted by this Court and order dated 01.06.2022 (Annexure P-2) along with subsequent order dated 05.06.2023 (Annexure P-4), would come in force.

Disposed of.

August 11, 2023
Harish

(VIKAS SURI)
JUDGE

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