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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 41768 of 2023
Date of Decision: 21.11.2023

FARID @ NAKKAT

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Arjun Attri, Advocate,
for the petitioner.

Mr. Vishal Malik, DAG, Haryana.

.....

SANJIV BERRY, J. (ORAL)

The instant petition under Section 482 Cr.P.C. has been preferred by the petitioner for quashing of the order dated 24.02.2021 (Annexure P-3) passed by learned Additional Civil Judge (Sr. Division), Mewat in case No. CHI-1037-2020 titled as State vs. Fareed, whereby the bail bonds submitted by the petitioner has been ordered to be forfeited. He further seeks quashing of the order dated 02.05.2023 (Annexure P-5), passed by learned Sessions Judge, Nuh, whereby fresh bail to the petitioner was dismissed in case FIR (Annexure P-1) as under:-

FIR No.	Dated	Sections	Police Station
53	28.03.2020	5/13(2), of Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015, 11 of Prevention of Cruelty of Animal Act 1960 and, 279, 336, 307 IPC and 25 Arms Act.	Rozka Meo, District Nuh

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was arrested on 22.10.2020 in the above said FIR and was granted bail by the learned trial Court vide order dated 15.12.2020 and concession of bail was never misused by the petitioner. After investigation challan was presented in the Court on 17.11.2020. Petitioner after presentation of challan was regularly appearing before trial Court without any default either in person or through his counsel and whenever the petitioner could not appear, he moved appropriate application through his counsel from time to time. On 24.02.2021, petitioner failed to appear before the trial court, due to the fact that petitioner was arrested in another FIR No. 2086 of 2022, under Section 174-A IPC, Police Station Shivaji Nagar, Gurugram and in absence thereof, the trial court wrongly cancelled the bail to the petitioner (Annexure P-3). He submits that it is for the first time when the petitioner was constrained to skip the appearance being compelled from the circumstances beyond his control, otherwise petitioner was regularly appearing before trial Court, personally or through his counsel without any default.

3. Learned counsel further submits that petitioner approached the learned Sessions Court for seeking anticipatory bail, however learned Sessions Judge, Nuh dismissed the bail application vide order dated 02.05.2023 (Annexure P-5). Aggrieved by the same petitioner filed the present petition. He submits that due to arrest in another FIR petitioner was unable to appear before the trial Court on the date fixed i.e. 24.02.2021, which is beyond his control, as such he prays for quashing of the impugned order.

4. Per contra learned State counsel submits that the petitioner had

jumped the bail, therefore he does not deserve concession of bail. He however, admits that the petitioner was arrested in another FIR No. 2086 of 2022, under Section 174-A IPC, Police Station Shivaji Nagar, Gurugram.

5. After considering the rival contentions and perusing the record, it transpires that petitioner was arrested on 22.10.2020 in the present FIR and was granted bail by the learned trial Court vide order dated 15.12.2020. thereafter, he had been regularly appearing in Court in person as well as through his counsel. However, on 24.02.2021 petitioner failed to appear before the trial Court and his bail was cancelled. It transpires that this happened due to arrest of petitioner in another FIR No.2086 of 2022, under Section 174-A IPC, Police Station Shivaji Nagar, Gurugram. Therefore, the non appearance of petitioner before the trial Court on 24.02.2021 was not intentional but due to the fact that he had been arrested in another case. Thus, from the circumstances of the case it is apparent that the absence of the petitioner on 24.02.2021 from the trial Court was not intentional but due to the reason that he was in custody in another case as has been admitted by learned State counsel.

6. Therefore, in the light of the above facts and circumstances, the impugned order dated 24.02.2021 (Annexure P-3) passed by learned Additional Civil Judge (Sr. Division), Mewat as well as order dated 02.05.2023 (Annexure P-5) passed by learned Sessions Judge, Nuh, whereby fresh bail to the petitioner was dismissed are hereby set aside. The present petition is allowed and the petitioner is directed to appear before the trial Court within three weeks from today and in that event, the petitioner is ordered to be released on bail on his furnishing personal/surety bonds to the

satisfaction of the learned trial Court/ Duty Magistrate. The petitioner is further directed to regularly appear before the trial Court on each and every date and not to leave the country without prior permission of the Court.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

21.11.2023
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No