

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

116

CRM-M-41631-2023

Date of decision: 23.08.2023

Daljit Singh @ Jeeta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Malkiat S. Hundal, Advocate, for the petitioner.

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 04.07.2023 vide which the bail order was cancelled and personal bail bonds and surety bonds were forfeited in FIR No.143 dated 31.05.2014, registered under Sections 21, 22, 61 and 85 of NDPS Act, 1985, at Police Station Jandiala Guru, District Amritsar.

2. Learned counsel contends that the petitioner had been granted regular bail by the trial Court vide order dated 19.08.2014, Annexure P-2 in FIR No.143, dated 31.05.2014, registered under Sections 21, 22, 61 and 85 of NDPS Act, 1985, at Police Station Jandiala Guru, District Amritsar whereafter, challan was presented on 16.10.2020 and charges were framed on 06.11.2020. The petitioner continued to appear regularly before the trial Court except on 04.07.2023, which was on account of the fact that he, being a truck driver, had gone out of station to

earn his livelihood. An application for personal exemption was also filed stating therein the aforesaid reason, however, the same was declined and the bail and surety bonds were cancelled and forfeited to the State. Non-bailable warrants were issued for 15.11.2023. The absence of the petitioner is neither wilful nor deliberate and on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and prays for grant of one opportunity to him to surrender before the learned trial Court. 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 15.09.2022.

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 trial Court on account of non-appearance of the petitioner.

5. Heard.

6. The very purpose of initiation of proclamation proceedings and issuance of non-bailable warrants 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.

7. The present petition was filed before this Court on 20.08.2023, which

is prior to the date for which the non-bailable warrants have been issued against the petitioner, which shows his bona fide to join the proceedings.

8. The explanation offered by the petitioner for his non-appearance in this case before the trial Court seems to be justified. It cannot be construed as a deliberate and willful absence.

9. 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 trial 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.

10. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 04.07.2023, Annexure P-3 is set aside subject to surrender by the petitioner before the trial Court on or before 10.09.2023. On furnishing bail/surety bonds, the trial Court shall release him on

bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

11. 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

23.08.2023
Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No