

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

123

CRM-M-43583-2023 (O&M)

Date of Decision: 06.09.2023

MANDEEP KUMAR

... Petitioner

Versus

STATE OF UT CHD

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Neeraj Sansaniwal, Advocate
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Prayer in this petition is for quashing the order dated 02.09.2022 (Annexure P-2) passed by the learned Additional Sessions Judge, Chandigarh, vide which the bail/surety bonds of the petitioner was cancelled and forfeited to the State and his non-bailable warrants of arrest were issued.

Learned counsel for the petitioner submits that the petitioner was granted bail on 06.12.2021 and he was regularly appearing before the trial Court; that, thereafter, the petitioner was arrested in an FIR registered in Himachal Pradesh on 17.03.2022 and that the petitioner remained in custody in Himachal Pradesh till 10.04.2023 and thus, it was not possible for him to appear before the Court below on 02.09.2022. It is, thus, contended that non-appearance of the petitioner was neither intentional nor willful, but for the reasons explained above.

Notice of motion.

On the asking of this Court, Mr. Deepinder Brar, Additional PP UT Chandigarh, accepts notice on behalf of the respondent-UT Chandigarh. He submits that the petitioner was moving exemption application one after the another and thus, it was for this reason that his bail/surety bonds were cancelled on 02.09.2022.

I have heard the learned counsel for the parties.

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. 02.09.2022, as he was in custody in some other case in Himachal Pradesh and therefore, his non-appearance on the said date was unintentional.

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 02.09.2022 (Annexure P-2) passed by the Court below is hereby set aside, qua the petitioner only.

The petitioner is directed to surrender before the trial Court/Duty Magistrate, on or before the date fixed before it i.e. 16.10.2023, subject to him depositing the costs of Rs.15,000/- with the concerned District Legal Services Authority. 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 concerned.

06.09.2023

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No