

CRM-M-44422-2023

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124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44422-2023
Date of Decision: 05.09.2023

Kulwant Kaur Dhillon

..... Petitioner

Versus

Jagmeet Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Amanpreet(A.P.) Singh, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

1. The present petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of the impugned order dated 18.01.2023 passed by the Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Malerkotla, vide which due to non-appearance of the petitioner on 18.01.2023, her bail order has been cancelled by the Court below and her bail/surety bonds have also been forfeited to the State and non-bailable warrants have also been issued against her in case No.NACT/227/2021 tilted as 'Jagmeet Singh Vs. Kulwant Kaur' dated 03.05.2021 under Section 138 of the Negotiable Instruments Act, 1881.

2. It is submitted by the learned counsel for the petitioner the petitioner was granted bail by the Court below vide order dated 04.08.2022. The petitioner had been appearing before the Trial Court regularly. However, on 18.01.2023, the petitioner could not appear before the Trial

Court because the husband of the petitioner had died in recent past and thereafter, the Covid pandemic had set in. Moreover, the notices issued by the Court below were not served upon the petitioner. As a result thereof, the Trial Court, vide order dated 18.01.2023, had cancelled the bail of the petitioner and forfeited the bail/surety bonds furnished by the her and had also issued the non-bailable warrants against her. Learned counsel submits that the absence of the petitioner from the court proceedings was not intentional. The petitioner is not intending to avoid the process of Court. Rather, she undertakes to appear before the Trial Court regularly. Hence, the petitioner deserves to be protected against her arrest.

3. Notice of motion.

4. Mr. Sandeep, Additional Advocate General, Punjab, accepts notice on behalf of the respondent State. He submits that although, the petitioner does not deserve the concession of bail because he had absconded from the process of law, however, the State has no objection if the petitioner appears before the Trial Court.

5. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remain present before the Court to receive the orders and punishments 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.

6. In view of the above, the present petition is allowed and the order

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dated 18.01.2023 (Annexure P-3) passed by the Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Malerkotla, is quashed, subject to the petitioner appearing before the Trial Court on or before 19.09.2023. It is further directed that in case the petitioner so appear before the trial Court on or before 19.09.2023, then the petitioner shall be released on bail on her furnishing bail bonds/sureties to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

(RAJBIR SEHRAWAT)
JUDGE

05.09.2023
adhikari

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No