

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

123

CRM-M-45000-2023

Date of decision: 11.09.2023

Jatin Kumar @ Jatinder Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Akash Manocha, Advocate, for the petitioner
Mr. Eeshan Garg, Advocate, for the complainant

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 09.05.2023, Annexure P-4, passed by learned Additional Sessions Judge, Ludhiana, whereby the bail of the petitioner stands cancelled and his bail and surety bonds were forfeited to the State in FIR No.187, dated 08.05.2018, registered under Sections 379-B, 411 and 34 IPC at Police Station Basti Jodhewal, Ludhiana.

2. Learned counsel contends that the petitioner had been granted regular bail by the trial Court vide order dated 12.06.2018, Annexure P-2, whereafter, he continued to appear regularly before the trial Court for almost 05 years and never misused the concession of bail. Charges were framed on 01.08.2019, Annexure P-3. However, on 09.05.2023, the petitioner having met with an accident could not appear before the trial Court. Consequently, his bail was cancelled and bail bonds and surety bonds were forfeited to the State vide order of even date, Annexure P-4. The factum of the accident though was brought to the notice of his counsel but he did not file an application in that regard or inform the Court regarding it.

The absence of the petitioner is neither wilful nor deliberate. Further that he is ready and willing to surrender before the Court and join the proceedings in case one opportunity is granted to him, which may even be subject to costs. 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 15.9.2022.

3. Notice of motion.

4. Ms. Himani Arora, AAG, 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, 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. 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 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.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 09.05.2023, Annexure P-4 is set aside subject to surrender by the petitioner before the trial Court on or before 25.09.2023 and depositing Rs.5,000/- with the Punjab and Haryana High Court Bar Advocates' Clerks Association. He is allowed to remain on the same bail/surety bonds as had been furnished by him at the time for granting regular bail and 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. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

9. 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

11.09.2023

Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No