

CRM-M-44125-2023

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123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-44125-2023
Date of Decision: 04.09.2023

Jagmohan @ Vicky

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ketan Chopra, 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 20.04.2023 passed by the Judicial Magistrate Ist Class, Ludhiana, passed in case No.CHI-1262 of 2023 tilted as 'State of Punjab Vs. Mintu' in FIR No.121 dated 01.05.2020, registered under Sections 451, 427, 34, 188, 269 and 201 of the Indian Penal Code, 1860, at Police Station Moti Nagar, District Ludhiana, vide which due to non-appearance of the petitioner on 20.04.2023, his bail has been cancelled by the Court below and his bail/surety bonds have also been forfeited to the State and non-bailable warrants have also been issued against him, as well as, orders dated 05.06.2023 and 20.07.2023 passed by the trial Court, vide which again non-bailable warrants of the petitioner were issued due to non receipt of warrants.

2. It is submitted by the learned counsel for the petitioner that the petitioner had appeared before the Trial Court at the time of filing of the challan and he was released on bail with a further direction to furnish surety bonds for an amount of Rs.10,000/- . However, due to communication gap regarding the next date of hearing, the petitioner could not appear before the Trial Court resulting into non furnishing of requisite surety bonds and hence, the Court below has cancelled the bail granted to the petitioner. 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, he undertakes to appear before the Trial Court regularly. Hence, the petitioner deserves to be protected against his 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.

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6. In view of the above, the present petition is allowed and the orders dated 20.04.2023 (Annexure P-3), dated 05.06.2023 (Annexure P-4) and dated 20.07.2023 (Annexure P-5) passed by the court of Judicial Magistrate Ist Class, Ludhiana, are quashed, subject to the petitioner appearing before the Trial Court on or before 06.09.2023. It is further directed that in case the petitioner so appear before the trial Court on or before 06.09.2023, then the petitioner shall be released on bail on his furnishing bail bonds/sureties to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

(RAJBIR SEHRAWAT)
JUDGE

04.09.2023
adhikari

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