

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

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CRM-M-44497-2023 (O&M)
Date of decision: 05.09.2023

Daya Nand @ Dayachand and another

....Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Chanderhas Yadav, Advocate for the petitioners.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioners in FIR No.209, dated 31.07.2019, registered under Sections 25, 54, 59 of Arms Act, 1959 and Sections 307, 34 IPC, at Police Station Salhawas, District Jhajjar.

2. Learned counsel contends that petitioner No.1 was granted regular bail vide order dated 28.08.2019 and petitioner No.2 was also enlarged on regular bail vide order dated 23.10.2019, whereafter, they continued to appear before the trial Court. In May 2023, younger son of petitioner No.1 had expired. Petitioner No.1 missed the date i.e. 03.08.2023 because he was unwell and there was no one, except petitioner No.2 to look after him. The OPD slip, appended as Annexure P-3, also shows that ECF was got done on the said date. Thereafter, an application seeking exemption was submitted by them, however, the same was declined and bail and surety

bonds were forfeited to the State. Non-bailable warrants are issued for 06.09.2023. The absence of the petitioners is neither wilful nor deliberate and on account of the reason aforesaid. Further that they are ready and willing to join the proceedings and prays for grant of one opportunity to them to surrender before the learned trial Court. On instructions of the petitioners, learned counsel states that any condition could be imposed, which they shall abide by without any demur and are ready to even give an undertaking before the trial Court that they will cooperate with the examination of Udham Singh-complainant and other witnesses namely Rekha and Vinod as also their cross-examination and shall not absent themselves.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Addl. AG, Haryana 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 petitioners. It is reflected from the order dated 03.08.2023 that this was not the only occasion when they had absented from the proceedings.

5. Heard.

6. Considering the peculiar facts and circumstances of the case and in the interest of justice, the petitioners are directed to surrender before the trial Court on or before 15.09.2023 and furnish fresh bail/surety bonds. On so doing, the trial Court shall release them on bail subject to its satisfaction. They are also directed to furnish an undertaking by way of an affidavit that they will appear on each and every date of hearing before the trial Court and

cooperate with the recording of the evidence. They 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.

- 7. Disposed of accordingly.
- 8. It is made clear that in case, the petitioners do not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

05.09.2023
Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No