

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-45237-2023 (O&M)
Date of decision: 13.09.2023

Gurtej Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Anmol Puri, Advocate for the petitioner.
Mr. C.L. Pawar, Addl. AG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Challenge in the present petition is to the order dated 08.08.2023 (Annexure P-10) passed by the learned Additional Sessions Judge, Moga, vide which the petitioner has been declared a proclaimed person in FIR No.142 dated 18.09.2020, registered at Police Station Bagga Purana, District Moga, under Section 21 of the Mines and Minerals Development Act, 1957.

Learned counsel for the petitioner submits that after granting anticipatory bail by the learned Additional Sessions Judge, Moga, the petitioner was regularly appearing before the Court; that thereafter, the case was transferred from the Court of learned Sessions Judge to the Court of learned Additional Sessions Judge, and the petitioner informed by his counsel that whenever required, he will be informed to appear in the Court; that the petitioner could not appear before the Court on 21.09.2022 as he was not informed by his counsel; that for said reason, his surety/bail bonds were cancelled and forfeited to the State, and accordingly, non-bailable warrants for 28.10.2022 were issued. It is further submitted that non-appearance of the petitioner was neither intentional nor willful. The petitioner is ready to appear before the learned trial Court to face the trial.

Notice of motion.

On the asking of this Court, Mr. C.L. Pawar, Addl. AG Punjab, accepts notice on behalf of the respondent-State and opposes the submissions made by the learned counsel for the petitioner.

I have heard the learned counsel for the parties.

It is a case, wherein, the petitioner could not appear before the learned trial Court on a solitary date dated 21.09.2022 and his non-appearance before the learned trial Court appears to be 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. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Keeping in view the above fact, the order dated 08.08.2023 (Annexure P-10) passed by the learned Additional Sessions Judge, Moga, vide which the petitioner has been declared a proclaimed person in FIR No.142 dated 18.09.2020, registered at Police Station Bagga Purana, District Moga, under Section 21 of the Mines and Minerals Development Act, 1957, is quashed subject to him depositing the costs of Rs.15,000/- with the District Legal Services Authority, Moga. 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.

Disposed of.

(HARNARESH SINGH GILL)
JUDGE

13.09.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No