

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

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CRA-S-2574-2023 (O&M)
Date of decision: 14.09.2023

Sandeep Khicher

....Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Narender Kaajla, Advocate, for the complainant

AMAN CHAUDHARY. J.

CRM-38498-2023

This application has been filed for condonation of delay of 301 days in filing the present appeal.

Notice of the application.

Mr. Jagdish Manchanda, Addl. AG, Haryana accepts notice on behalf of the respondent-State. He has no objection in case the delay is condoned.

For the reasons stated in the application, the same is allowed and delay of 301 days in filing the present appeal is condoned.

CRA-S-2574-2023

1. The appeal has been filed for quashing of order dated 16.09.2022, passed by Additional Sessions Judge, Hisar, whereby the bail of the appellant stands cancelled and bail and surety bonds forfeited to the State in FIR No.366, dated 06.10.2021, registered under Sections 506, 509, 34 IPC (Section 34 IPC deleted later on) and Section 3 (1) (r) (s) SC and ST Act, 1989 at Police Station Uklana, District Hisar.

2. Learned counsel contends that the appellant had been granted regular bail by the trial Court vide order dated 24.02.2022, wherein the misunderstanding between the parties had been resolved with the intervention of respectables of the society and PW-1 & PW-2 had not deposed against the present appellant, as is discernible from their testimonies, Annexures A-4 and A-5. Under the impression that the trial is over and on account of his bonafide mistake that the appellant is not required to attend each day of hearing, as the private witnesses had been examined, he failed to appear before the trial Court on 16.09.2022 which led to passing of the impugned order. It is only when the police officials visited the house of the appellant that his family members informed him about issuance of warrants of arrest against him. The absence of the appellant is neither wilful nor deliberate. Further that he is ready and willing to surrender before the Court and join the proceedings for which he prays for grant of one opportunity, that may even be subject to costs. The next date of hearing before the trial Court is 03.10.2023. 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. Mr. Jagdish Manchanda, Addl. AG, Haryana, who has appeared on receipt of advance copy of the appeal, opposes the same by submitting that the appellant had willfully absented himself from the proceedings and the impugned order is legal and valid and has been rightly passed by the trial Court on account of non-appearance of the appellant.

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 appellant 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 appellant, 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 appeal deserves to be allowed.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 16.09.2022 is set aside subject to surrender by the appellant before the trial Court on or before 29.09.2023 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. 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 appellant does not adhere to the aforesaid, the present appeal shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

14.09.2023

Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No