

CRM-M-47023-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47023-2023

Date of decision: 21.09.2023

KEWAL SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sanyam Bhardwaj, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

1. Challenge in the present petition is to the order dated 24.05.2023 (Annexure P-3) passed by learned Judicial Magistrate Ist Class, Moonak whereby bail of the petitioner in complaint No.NACT/83/2022 titled as 'Manjit Singh Vs. Kewal Singh', has been cancelled and warrant of arrest has been issued against him, and further to the order dated 01.08.2023 (Annexure P-4), vide which proclamation proceedings have been initiated against him.

2. Learned counsel for the petitioner submits that the petitioner was summoned in the above-noted complaint filed by respondent No.2; that after having been granted the concession of bail, the petitioner had been regularly appearing before the trial Court; that however on 24.05.2023, the petitioner absented himself from the court proceedings on the ground that he was undergoing treatment with a local doctor due to amputation of thumb, and that non-appearance of the petitioner before the trial Court was not intentional but for the reasons explained above. It is further submitted

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that now the proclamation proceedings have been initiated against the petitioner, but the fact remains that he has not been declared a proclaimed offender yet.

3. Notice of motion to respondent No.1-State only, at this stage.

4. On the asking of this Court, Mr. C.L.Pawar, Addl. A. G. Punjab, accepts notice on behalf of respondent No.1-State.

5. I have heard the learned counsel for the parties.

6. It is a case wherein the petitioner had been regularly appearing before the Court, but he could not appear on 24.05.2023. It is his specific case that he was undergoing treatment with a local doctor due to amputation of thumb. His non-appearance on the said date seems to be unintentional. As stated above, the petitioner has not been declared a proclaimed offender till date.

7. 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 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.

8. Though the petitioner absented himself from the Court proceedings, yet he is not required for any investigation or interrogation purposes and rather, he is only to face the trial in a complaint case. Therefore, no useful purpose would be served by sending him to custody.

9. Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is allowed and the

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impugned orders dated 24.05.2023 and 01.08.2023 (Anenxures P-3 and P-4) respectively, are set aside.

10. The petitioner is directed to surrender before the trial Court/Duty Magistrate within 10 days from today, subject to him depositing the costs of Rs.20,000/- with the concerned District Legal Services Authority. 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.

21.09.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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