

CRM-M-47085-2023

-1-

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-47085-2023
Date of Decision: 20.09.2023

Ashok Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Manmeet Singh Bindra, 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 orders dated 18.07.2023 and 11.08.2023 passed by the Chief Judicial Magistrate, Jalandhar, whereby bail order and bail bonds of the petitioner have been cancelled, non-bailable warrants have been issued and proclamation proceedings under Section 82 Cr.P.C. have been started in case FIR No.98 dated 18.08.2020, registered under Section 188 of the Indian Penal Code, 1860, at Police Station Division No.4, District Police Commissionerate Jalandhar.

2. It is submitted by the learned counsel for the petitioner the petitioner had been appearing before the Trial Court regularly. However, on 18.07.2023, the petitioner could not appear before the Trial Court because he had noted a wrong date. When the petitioner appeared before the Trial

CRM-M-47085-2023

-2-

Court on 13.06.2023, he was told that the next date of hearing fixed in the case was 14.08.2023. However, it is transpired that the case was actually adjourned for 18.07.2023. Therefore, the petitioner could not appear on the said date and appeared on the subsequent date on 14.08.2023. The absence of the petitioner resulted in cancellation of the bail bonds of the petitioner and initiation of the proclamation proceedings against 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.

6. In view of the above, the present petition is allowed and the orders

CRM-M-47085-2023

-3-

dated 18.07.2023 (Annexure P-2) and 11.08.2023 (Annexure P-3) passed by the Chief Judicial Magistrate, Jalandhar, are quashed, subject to the petitioner appearing before the Trial Court on or before 25.09.2023. It is further directed that in case the petitioner so appear before the trial Court on or before 25.09.2023, 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

20.09.2023
adhikari

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