

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

**CRM-M No.50267 of 2023
Date of Decision:06.10.2023**

Manoj Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raj Kapoor Malik, Advocate
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing the impugned order dated 28.07.2023 (Annexure P-1) passed by the learned Sessions Judge, Hisar in case FIR No.709 dated 03.11.2020 under Sections 193, 297, 420, 467, 468, 471, 120-B IPC (Sections 7, 13 (1) of the Prevention of Corruption Act, 1988 added later on) registered at Police Station Hansi City, District Hansi vide which bail of the petitioner herein stands cancelled and he has been summoned by way of warrants of arrest for 07.10.2023.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that the petitioner has been putting in appearance before the learned trial Court on each and every date of hearing after he was granted regular bail vide order dated 24.04.2023 passed by this Court in CRM-M No.18517 of 2023 titled as *Manoj Kumar Vs. State of Haryana*. He refers to various interlocutory orders passed by the learned trial Court to show that the petitioner has been regularly appearing before the learned trial Court and he never absented on any date of hearing. On 28.07.2023, the petitioner was suffering from eye flu and got his medical

check-up done at Government Hospital, Kaithal. The doctor advised him bed rest and therefore, due to the said illness, he could not appear before the learned trial Court on 28.07.2023. The petitioner had requested his counsel to file an application for seeking exemption from personal appearance, which was dismissed by the learned trial Court vide impugned order dated 28.07.2023 while cancelling his bail bonds and issued warrants of arrest for 07.10.2023 to secure his presence. The absence of the petitioner was not deliberate and willful but owing to illness as aforesaid and therefore, counsel for the petitioner prays for setting aside of the impugned order dated 28.07.2023.

3. Per contra, learned State counsel contends that the petitioner had not annexed any medical certificate in support of his application for seeking exemption from personal appearance. As such, the learned trial Court has rightly cancelled his bail bonds and issued warrants of arrest.

4. I have heard learned counsel for the parties and have perused the paper book.

5. The learned trial Court while dismissing the application filed by the petitioner for seeking personal appearance vide impugned order dated 28.07.2023 has reasoned that the petitioner is wanted in another FIR bearing No.67 of 2021 registered at Police Station Bahu, Akbarpur and therefore, it seems that he is not appearing in the Court to avoid his arrest in the said case. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406*** while extensively dealing with the issue regarding issuance of warrants of arrest and cancellation of bail on account of mere absence of accused on one date before the trial Court, has held that mere absence of accused on one date before the trial Court in itself is not sufficient to conclude that he is absconding and it cannot be sole ground for issuance of non-bailable

warrants. The warrants of arrest cannot be issued without exhausting other methods of securing attendance of the accused.

6. The learned trial Court has reasoned that the petitioner is wanted in FIR No.67 of 2021 and therefore, he is evading his arrest. The said FIR is registered in the year 2021 and the petitioner after grant of bail by this Court on 24.04.2023 had appeared before the learned trial Court on 17.04.2023 and 18.05.2023 as is evident from the zimni orders (Annexure P-4). On 18.05.2023, the case before the trial Court was adjourned to 28.07.2023 for which date the petitioner had filed application for seeking exemption from personal appearance on the ground that he was suffering from eye flu and therefore, the reasoning of the trial Court that the petitioner was evading arrest in the FIR, which was registered in the year 2021, is not justified. Had that been the case, the petitioner ought not to have put in appearance before the trial Court on 17.04.2023 and 18.05.2023.

7. The sole purpose of the cancellation of bail bonds or issuance of warrants of arrest is to secure presence of the accused. Mere absence of the petitioner on one date of hearing before the trial Court cannot be construed that the petitioner is evading his arrest in another FIR, which was registered in the year 2021. The petitioner has been summoned by the learned trial Court for 07.10.2023 by way of warrants of arrest and he undertakes to appear before the learned trial Court on each and every date.

8. In view of the aforesaid facts and circumstances and the ratio of law laid down by this Court in **Major Singh @ Major's** case (supra), the impugned order dated 28.07.2023 (Annexure P-1) passed by the learned trial Court is set aside. The petitioner is directed to appear before the learned trial Court on or before 13.10.2023 and on his doing so, the learned trial Court shall admit him to bail on furnishing of fresh bail bonds along with costs of ₹10,000/- to be deposited with

the District Legal Services Authority, Hisar for wasting the valuable time and process of the Court.

9. The present petition is allowed in above terms.

(HARPREET SINGH BRAR)
JUDGE

October 06, 2023
Pankaj*

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