

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

132

CRM-M-51446-2023
Date of decision: 10.10.2023

Vinod Kumar Gattu

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Pushp Jain, Advocate for the petitioner

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the impugned orders dated 09.01.2023, Annexure P-3 and order dated 04.08.2023, Annexure P-4, passed by Judicial Magistrate 1st Class, Mansa in FIR No. 247 dated 16.12.2018 registered under Sections 61/1/14 and 78 of the Punjab Excise Act, 1914 at Police Station Sadar Mansa, District Mansa.

2. Learned counsel contends that the petitioner was granted anticipatory bail by this Court vide order dated 04.02.2019, Annexure P-2, whereafter he was regularly appearing before the trial Court on each and every date of hearing but for 09.01.2023, which was on account of he having fractured both his toes, which were got plastered and non-bailable warrants have been issued to procure his presence. He, thereafter, filed an application for grant of anticipatory bail which was dismissed on 11.08.2023, Annexure P-5, being not maintainable. Now the case is listed on 21.10.2023. His absence was neither willful nor deliberate. He is

ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the trial Court, even if the same is subject to costs.

3. Ms. Himani Arora, AAG, Punjab, appears on behalf of respondent-State and submits that the non-bailable warrants have been rightly issued against the petitioner, as he had absented from the proceedings.

4. Heard.

5. 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.

6. This Court in CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.09.2022, while considering the bonafide of the petitioner and finding the reason for his absence justified, set aside the order issuing non-bailable warrants. In CRM-M-38277-2022, **Surjit Singh vs. State of Punjab**, dated 26.08.2022 and CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022, the orders whereby non-bailable warrants were issued on account of his non-appearance, were set aside on the ground that the same was on account of having noted down the wrong date and failure of his counsel in not intimating the same.

7. Reverting to facts of the case in hand, the explanation offered by the petitioner for non-appearance appears 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.

8. In the light of the facts and circumstances of the case, judgments

referred to hereinabove, the readiness and willingness of the petitioner to surrender and join the proceedings, which was incumbent upon him for the culmination of the same, the present petition deserves to be and is allowed, in the interest of justice, so as to facilitate expediting the trial and for taking it to its logical end.

9. Accordingly, impugned orders dated 09.01.2023 and 04.08.2023, are set aside subject to surrender by the petitioner before the trial Court on or before 21.10.2023 and depositing Rs.10,000/- with the Poor Patients Welfare Fund, PGIMER, Chandigarh. He is allowed to remain on the same bail/ surety bonds as had been furnished by him at the time for granting bail. 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.

10. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

10.10.2023

Mehak

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No