

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-M-52671-2023
Date of Order: 18.10.2023

Brijpal & another

...Petitioner (s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Jasneet Mehra, Advocate for
Mr. Amrainder Singh, Advocate
for the petitioner.

Mr. Shubham Kaushik, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
290	29.10.2013	City Tarn Taran, District Tarn Taran.	29 NDPS Act and Sections 7/13 PC Act, 1988

1. Challenging the order of cancellation of bail and issuance of non-bailable warrants, vide order dated 4.10.2023 (Annexure P-3) passed by Ld ASJ, Tarn Taran, due to the default in appearances before the trial court, the petitioners have come up before this court.
2. Petitioners are arraigned as an accused in the above-captioned FIR and were on bail. On their failure to appear before the trial Court on 4.10.2023, the concerned Court proceeded against them by issuing non-bailable warrants for 25.10.2023.
3. Given the nature of order this court proposes to pass, no response is required from the respondent.
3. Learned counsel for the petitioner contends that the non-appearance was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioner’s control.
4. The primary object is to secure the accused's presence in trial. The petitioners have approached this court on their own, establishing the *bona fide* at this stage.

5. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet if petitioners are granted one more opportunity to join trial. Given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty.

6. Furthermore, without adjudicating the maintainability of this petition under section 482 CrPC and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. Thus, exercising the inherent powers under Section 482 CrPC, this Court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

7. In paragraph no. 4 of the petition the petitioner explains reasons for non-appearance which was due to medical reasons.

8. **The petitioners are directed to surrender before the concerned court on the date fixed i.e. 15.11.2023. The concerned Court shall release the petitioners on bail on the same day, subject to furnishing bail bonds to its satisfaction and imposing reasonable conditions as it may deem appropriate in the background of the accused's conduct.**

9. It is clarified that trial Court may proceed against the petitioner or surety under Section 446 CrPC and this order shall not hinder the trial Court proceedings under Section 446 CrPC.

10. The order vide which the arrest warrants against the petitioners was issued in the FIR shall remain stayed *qua* the petitioners, till 15.11.2023. **It is clarified that if the petitioners fail to appear before the concerned court within the stipulated period, then this order shall stand recalled automatically under Section 362, read with 482 CrPC, without any further reference to this court.**

11. By the next date before the trial Court, the petitioners shall deposit a sum of rupees ten thousand (Rs.5,000/- each) in the following account and hand over its receipt to the trial court.

“AJIT SINGH POLICE WELFARE FUND”
ACCOUNT NO. 12171450000081,
HDFC BANK, SCO 3, SECTOR 15-C, CHANDIGARH- 160015,
RTGS/NEFT IFSC: HDFC0001217,

12. Any observations made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

13. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent and subject to the conditions mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

October 18, 2023
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.