

CRM-5047-2023; CRM-5048-2023 in/&
CRM-M-56113-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-5047-2023; CRM-5048-2023 in/&
CRM-M-56113-2022 (O&M)
Date of decision: 10.02.2023

BILLU SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Satveer Singh Badal, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

CRM-5048-2023

For the reasons mentioned in the application for preponing the date of hearing, same stands allowed. Main case is preponed and is taken on board today itself.

CRM-5047-2023

For the reasons mentioned in the application, same stands allowed. Annexure P-5 whereby arrest warrants were being issued, in the order i.e. being proposed to be passed, but notice was not been issued to the complainant, is taken on record, subject to all just exceptions.

CRM-M-56113-2022

Present petition has been filed under Section 482 CrPC for quashing of order dated 04.02.2020 vide which stay of operation of sentence ordered vide order dated 28.11.2017 has been revoked, passed in criminal appeal No.CRA-252

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of 2017 dated 28.11.2017 against the judgment passed in Criminal complaint No.312 of 04.07.2016, CIS No.NACT-314-2016 under Section 138 of Negotiable Instruments Act.

Learned counsel contends that the petitioner was falsely implicated in the case filed under Section 138 Negotiable Instruments Act, wherein he was convicted. Thereafter, he preferred an appeal and his sentence was suspended by the Appellate Court vide order dated 28.11.2017 Annexure P-2. Thereafter, he continued to regularly appear before the trial Court, however, on 04.02.2020 on account of outbreak of Covid-19 pandemic, he was unable to appear before the trial Court. The Appellate Court vide order dated 04.02.2020 revoked the order dated 28.11.2017, whereby sentence was suspended and bail bonds and surety bonds were forfeited to the State and arrest warrants were issued, which he submits that were never served upon the petitioner and he was neither aware of the said order nor the subsequent orders passed by the Court. He, however, submits that the absence of the petitioner is neither willful nor deliberate and is on account of the reason aforesaid. He submits that the petitioner is ready and willing to join the proceedings, and prays that one opportunity may be granted to the petitioner to surrender before the learned trial Court, which may even be, subject to payment of costs. In support of his arguments learned counsel for the petitioner relies upon the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of “Surjit Singh Vs. State of Punjab”, CRM-M-39000-2022, titled as “Raghav vs. State of Punjab”, decided on 9.9.2022 and CRM-M-36490-2022, “Major Singh vs. State of Punjab”, decided on 15.9.2022.

Notice of motion.

Mr. Kamalpreet Bawa, AAG Punjab, who has appeared on receipt of

advance copy of the petition, opposes the petition by submitting that the impugned order is legal and valid and has been rightly passed by the learned trial Court on account of non-appearance of the petitioner.

Since no order that may prejudice the interest of the private respondent is proposed to be passed, therefore, there is no necessity of issuing notice to him to seek his response at this stage.

Heard.

The very purpose of issuance of non-bailable warrants, is to compel and secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

Adverting to the facts of the present case that on account of outbreak of Covid pandemic, he could not appear before the trial Court, and subsequently he was not served but declared proclaimed person appears to be justified explanation. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot necessarily be construed as deliberate and willful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner being not willful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

In view of the facts and circumstances of this case and the orders

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referred to above, the impugned order dated 04.02.2020 Annexure P-3 is set aside subject to the petitioner surrendering before the trial Court within 10 days and depositing of Rs.10,000/- with the trial Court, which shall further be disbursed to the complainant forthwith and furnish his fresh bail/surety bonds. On so doing, the trial Court shall release him on bail by imposing surety to its satisfaction. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall also surrender his passport and will not leave the country without prior permission of the Court or the trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

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.

(AMAN CHAUDHARY)
JUDGE

February 10, 2023
M.Kamra

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