

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

116

CRM-M-55768-2022 (O&M)
Date of decision: 17.01.2023

SHAMBHU DAYAL

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Ketan Chopra, Advocate
for the petitioner.

AMAN CHAUDHARY. J.

The present petition under Section 482 of the Cr.P.C. has been filed for quashing the impugned orders dated 14.03.2022 (Annexure P-1), 18.07.2022 (Annexure P-2), 03.08.2022 (Annexure P-3) passed in case No. CHI-18371 of 2019 titled as 'State of Punjab vs. Vipin Kumar' in FIR No. 255 dated 13.12.2018 under Sections 346 and 120-B of IPC registered at police station Sarabha Nagar, Ludhiana pending in the Court of learned JMIC, Ludhiana, whereby his bail has been cancelled, bail/surety bonds forfeited to the State and non-bailable warrants were issued.

Learned counsel contends that the petitioner is an illiterate person and is a daily wage worker belonging to U.P., and is working in Ludhiana. He is sole bread winner of his family and has been falsely implicated in the present case. He was granted bail in FIR No.255 dated 13.12.2018 under Sections 346 and 120-B of IPC, whereafter, he continued to appear before the trial Court except during the period of out-break of Covid-19 pandemic. On 06.01.2022 and

18.01.2022, he was granted exemption by the learned trial Court, whereafter, the matter was adjourned to 14.03.2022. Thereafter, the petitioner informed his learned counsel about the factum of his visit to his native village due to death of his close relative in the month of March and he would not be present on the next date of hearing and requested him to file an appropriate application for his exemption. However, neither did the learned counsel file the aforesaid application nor appear before the learned trial Court, leading to issuance of non-bailable warrants against the petitioner for 31.08.2022. Thereafter, the proclamation proceedings have been initiated against the petitioner and the case is now listed on 20.01.2023. The petitioner had also filed an application for grant of anticipatory bail before the learned trial Court, which was dismissed vide order dated 21.09.2022.

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 for 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. Manipal Singh Atwal, DAG Punjab, who has appeared on receipt of advance copy of the petition, opposes the petition by submitting that the

impugned order has been rightly passed by the learned trial Court.

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 inasmuch as the petitioner had to visit to his native village due to death of his close relative, thus could not appear before the trial Court, leading to the passing of the impugned order, which appears to be justified explanation of absence. At times, the accused or his counsel 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 judgments referred to above, the impugned orders dated 14.03.2022 (Annexure P-1), 18.07.2022 (Annexure P-2), 03.08.2022 (Annexure P-3), are set aside, subject to deposit of Rs.10,000/- with the Punjab and Haryana High Court Bar Association Lawyer's Family Welfare Fund, A/c No.41564846387, SBI High Court Branch. The petitioner is directed to surrender before the trial Court on or before

20.01.2023 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

January 17, 2023

M.Kamra/S.Sharma(syr)

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