

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

119

CRM-M-54745-2023 (O&M)
Date of decision: 06.12.2023

Lakhvir Singh @ Kali**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. C. S. Rana, Advocate
for the petitioner.

Mr. M. S. Tiwana, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-49727-2023

Allowed as prayed for.

Copies of zimini orders are taken on record as Annexure
P-6 (*Colly.*).

2. CRM-M-54745-2023

This petition has been filed by the petitioner seeking quashing of order dated 11.10.2021, passed by the learned Judicial Magistrate First Class, Jagraon (*for short 'the trial Court'*) in case bearing CHI-67-2020, arising out of FIR No. 227 dated 15.07.2018, registered under Section 354 IPC at Police Station Sidhwan Bet, District Ludhiana, whereby the bail of the petitioner was ordered to be cancelled, his bonds were forfeited to the State and he was ordered to be summoned through non-bailable warrants.

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3. Brief facts of the case relevant for the purpose of disposal of this petition are that the petitioner is facing trial in the aforementioned case before the trial Court. He had been regularly appearing before the trial Court. After the outbreak of COVID-19 pandemic in the year 2020, the cases were being adjourned by the Courts. The counsel, who was representing the petitioner before the trial Court, had assured him that he would be duly informed as and when his presence would be required in the said case. The petitioner, while believing his counsel, did not appear before the trial Court after the outbreak of COVID-19 pandemic. However, no information was given to him by his counsel that his presence was required before the trial Court. On coming to know about the cancellation of his bail, he immediately moved an application for grant of pre-arrest bail before the Sessions Court. The same was, however, dismissed, vide order dated 07.06.2023 by the Additional Sessions Judge, Ludhiana. While submitting that his absence was neither intentional nor willful as explained above, he has prayed for quashing of order dated 11.10.2021 passed by the trial Court. He has annexed copy of impugned order dated 11.10.2021 as well as copies of some other orders. Now, copies of the orders, which have been passed by the trial Court after 11.10.2021, have been placed on record, which show that the proceedings under Section 82 Cr.P.C. have been ordered to be initiated against the petitioner and proclamation has been published. The case is pending for awaiting his appearance for 14.12.2023 for the purpose of declaring him a proclaimed person.

4. Learned counsel for the petitioner has argued that the absence of the petitioner was not intentional or willful. He never avoided his appearance in the Court. It was only after the outbreak of COVID-19 pandemic and non-

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working of the Courts during that period that he had not appeared before the trial Court. He neither had received any notice nor non-bailable warrants as issued by the trial Court prior to passing of order dated 11.10.2021. Hence, it is urged that the present petition deserves to be allowed.

5. *Per contra*, learned State counsel has argued that the petition is not maintainable as the petitioner could very well have surrendered before the trial Court and seek concession of bail, which he has not chosen to do.

6. I have heard learned counsel for the parties and have also perused the material placed on record very carefully.

7. A perusal of the copies of the zimini orders, which have been placed on record, reveals that the petitioner had been regularly appearing before the trial Court till 11.02.2020, when the case was adjourned to 26.03.2020. Judicial notice can be taken of the fact and it is also evident from the orders passed by the trial Court during the period from March, 2020 till 22.02.2021 that the Courts in the State of Punjab were not working regularly due to circumstances arisen as a result of outbreak of COVID-19 pandemic and the cases were being adjourned from time to time. It is revealed that it was only on 22.02.2021 that the file had been taken up by the trial Court for passing any effective order and notice was directed to be issued to the petitioner for 09.07.2021. Notice was not received on that day and hence it was again issued for 11.10.2021. A perusal of order dated 11.10.2021 reveals that without mentioning that the petitioner had received the notice issued for that date or not, the trial, Court by simply observing that he had not appeared, had cancelled his bail and his bonds were forfeited to the State. Non-bailable warrants were ordered to be issued for 09.12.2021 and continued being issued

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till 01.05.2023, when the trial Court, by observing that these warrants had been received unserved, had initiated proceedings under Section 82 Cr.P.C. against the petitioner. On going through the orders as passed by the trial Court, I am of the considered opinion that the absence on the part of the petitioner till 11.10.2021 could not be stated to be either willful or intentional at all and it was due to the circumstances arisen out of the outbreak of COVID-19 pandemic. The trial Court, while cancelling the bail of the petitioner, did not mention the fact that the petitioner had avoided service of notice or had not appeared despite service thereof.

8. In view of the above discussion, the present petition is disposed of. The petitioner is directed to surrender before the trial Court on or before 14.12.2023 and on doing so, the trial Court will admit him to bail, subject to his furnishing fresh bail/surety bonds to its satisfaction.

06.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No