

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

129

CRM-M-60717-2022

Date of Decision: 04.01.2023

Irfan @ Irfan Khan

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Sudhir Rana, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

ASHOK KUMAR VERMA, J. (ORAL)

Through this petition under Section 482 Cr.P.C. petitioner has approached this Court for quashing of impugned order dated 14.03.2022 (Annexure P-2) passed by Sub Divisional Judicial Magistrate, Kosli, in FIR No. 162 dated 17.12.2018 registered under Sections 457, 380, 511, 427 and 201 IPC registered at Police Station Jatusana, District Rewari, whereby bail of the petitioner was cancelled and non-bailable warrants of arrest have been issued against him.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner was nominated as an accused in the aforesaid FIR on the disclosure statement made by co-accused-Sarfraj. Petitioner was granted regular bail by the trial Court vide order dated 08.03.2019 (Annexure P-1). Thereafter, petitioner had been appearing regularly before the trial Court. However, on 14.03.2022 petitioner failed to

appear before the trial Court because he is a driver by profession and on 14.03.2022, he was on the way to Court from Maharashtra, but due to heavy traffic jam, he could not come present before the Court and his counsel has not moved application for his exemption from personal appearance. Non-appearance of the petitioner was not intentional or deliberate.

Notice of motion.

On the asking of the Court, Mr. Munish Sharma, AAG, Haryana, accepts notice on behalf of the respondent-State and submits that the trial Court has rightly issued warrants of arrest against the petitioner.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua him. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would be justified to protect him from being arrested. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, the impugned order dated 14.03.2022 (Annexure P-2) is set aside and the petitioner is directed to surrender before the trial Court within 15 days from today, subject to deposit of Rs.10,000/- with the District Legal Services Authority, Rewari. On his doing so, the petitioner shall be released on bail, subject to his furnishing the fresh bail/surety bonds to the satisfaction of the trial Court

and in case of failure to do so, the bail application shall be deemed to have been dismissed.

However, trial Court shall be at liberty to initiate separate proceedings against the petitioner under Section 446 Cr.P.C., if so required.

Disposed of.

January 04, 2023
rishu

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No