

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

CRM-M No.57020 of 2023

Decided on:10.11.2023

Neeraj Mahajan

... Petitioner

Versus

Kuldeep Singh

... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Ridhi Bansal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner has approached this Court under Section 482 Cr.P.C. praying for setting aside the order dated 14.09.2023 (Annexure P-1) passed by the learned Judicial Magistrate 1st Class-1, Nangal whereby bail bonds/surety bonds of the petitioner were cancelled and forfeited to the State and the petitioner has been summoned through non-bailable warrants in complaint case bearing NACT No.158 of 2019 titled as *Kuldeep Singh Vs. Balaji Automobile etc.*

2. Learned counsel for the petitioner *inter alia* contends that the aforesaid complaint case was fixed for hearing before the learned trial Court on 14.09.2023 for complainant's evidence and cross-examination of CW1. As the petitioner herein was suffering from severe back pain and advised complete bed rest for 20 days, the petitioner was not in the position to attend the court proceedings on 14.09.2023. The petitioner duly intimated his counsel before the Court below about his medical condition and sent him also the medical certificate (Annexure P-3) on whatsapp but instead of filing application seeking personal exemption of the petitioner accompanying the medical certificate, a statement was made by the counsel that he did not have any intimation about the whereabouts of the

petitioner. Ultimately, the learned trial Court cancelled the bail of the petitioner and forfeited bonds/surety bonds to the State vide impugned order dated 14.09.2023. As such, the petitioner was summoned through non-bailable warrants for 28.09.2023. On 28.09.2023, the learned trial Court issued fresh non-bailable warrants for 12.10.2023. As the non-bailable warrants issued to the petitioner remained unexecuted on 12.10.2023 and 30.10.2023, fresh non-bailable warrants were issued for 10.11.2023. In the interregnum, the petitioner had preferred an application for grant of anticipatory bail under Section 438 Cr.P.C. before the learned Addl. Sessions Judge, Rupnagar, which came to be dismissed on 06.10.2023. It is further contended that non-appearance of the petitioner before the learned trial Court on 14.09.2023 was neither intentional nor willful but was owing to severe back pain for which he was advised complete bed rest for 20 days and therefore, prays for setting aside of the order dated 14.09.2023. The petitioner is ready to join proceedings and undertakes to be remained present on each and every date of hearing.

3. Heard.

4. A perusal of the case file would reveal that the petitioner herein had failed to appear before the learned trial Court on 14.09.2023 as he was suffering from acute back pain and was advised complete bed rest for 20 days. Counsel appearing for the petitioner before the learned trial Court, despite being made aware of the health condition of the petitioner, did not file any application seeking exemption from personal appearance, rather made a statement that he did not have any intimation qua whereabouts of the petitioner. The screen shots of Whatsapp annexed with instant petition as Annexure P-4 clearly show that the petitioner had sent his medical certificate to the counsel on 13.09.2023 i.e. one day prior to the date fixed before the Court. Moreover, the petitioner is ready to

join the proceedings and further undertakes to attend court proceedings on each and every date.

5. In view of the aforesaid facts and circumstances, the impugned order dated 14.09.2023 (Annexure P-1) is set aside. The petitioner is directed to surrender before the trial Court on or before 17.11.2023 and apply for grant of regular bail. On his doing so, the Court concerned shall admit him to bail subject to furnishing bail bonds and surety bonds to its satisfaction along with costs of ₹10,000/- for wasting precious time of the Court to be deposited with the District Legal Services Authority, Rupnagar.

6. Needless to say, in case the petitioner fails to comply with the abovesaid direction, the order passed by this Court today shall stand automatically vacated.

7. The instant petition stands allowed in above terms, without issuing notice to the respondent in order to save time of the Court and to avoid litigation expenses to be incurred on the part of the respondent.

(HARPREET SINGH BRAR)
JUDGE

November 10, 2023
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No