

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58513-2023
Date of Order: 20.11.2023

Swaran Singh & others
...Petitioner (s)
Versus
State of Punjab & another
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. R.S. Manhas, Advocate
for the petitioner.

Ms. Swati Batra, DAG, Punjab, (Through VC).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
13	16.5.2005	Vigilance Bureau, Phase-I, Punjab at Mohali.	420/176/120-B IPC and 13(1) read with Section 13(2) Prevention of Corruption Act, 1988.

1. Aggrieved by order dated 21.8.2023 passed by Additional Sessions Judge, SAS Nagar, whereby the bail granted to the petitioners-accused has been cancelled and non-bailable warrants have been issued due to the default in appearances, the petitioners have come up before this court under Section 438 CrPC seeking bail.
2. Petitioners are arraigned as an accused in the above-captioned FIR and were on bail. On their failure to appear before the trial Court on 21.8.2023, the concerned Court proceeded against them by issuing non-bailable warrants and now, the next date of hearing is fixed for 29.11.2023.
3. Given the nature of order this Court proposes to pass, no response is required from the respondent-State.
4. Learned counsel for the petitioners contends that the non-appearance was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioners’ control.

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5. The primary object is to secure the accused's presence in trial. The petitioners have approached this Court on their own, establishing their *bona fide* at this stage. In paragraph no. 15 of the petition the petitioners explain reasons for non- appearance which was due to wrong noting of date.

6. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet if petitioners are granted one more opportunity to join trial.

7. Furthermore, without adjudicating the maintainability of this petition under Section 438 CrPC and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. This Court deems it appropriate to grant the following limited relief to the petitioners, subject to compliance with the conditions mentioned in this order.

8. **The petitioners are directed to surrender before the concerned court on or before the date fixed before the trial Court i.e. 29.11.2023. The concerned Court shall release the petitioners on bail on the same day, subject to furnishing bail bonds to its satisfaction and imposing reasonable conditions as it may deem appropriate in the background of the accused's conduct.**

10. It is clarified that trial Court may proceed against the petitioners and sureties under Section 446 CrPC and this order shall not hinder the trial Court proceedings under Section 446 CrPC.

11. The order vide which the arrest warrants against the petitioners was issued in the FIR captioned above shall remain stayed *qua* the petitioners, till 29.11.2023. It is clarified that if the petitioners fail to appear before the concerned court within the stipulated period, then this order shall stand recalled automatically under Section 362, read with 482 CrPC, without any further reference to this court.

12. By the next date before the trial Court, the petitioners shall deposit a sum of rupees ten thousand (Rs.5,000/- each) in the following account and hand over its receipt to the trial court.

“AJIT SINGH POLICE WELFARE FUND”
ACCOUNT NO. 12171450000081,
HDFC BANK, SCO 3, SECTOR 15-C, CHANDIGARH- 160015,
RTGS/NEFT IFSC: HDFC0001217,

13. Any observations made hereinabove is neither an expression of opinion on the

merits of the case nor shall the trial Court advert to these comments.

14. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent and subject to the conditions mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

November 20, 2023
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.