

CRM-M-58397-2023
Date of decision: 20.11.2023

Versus

Paramjit Singh ..Respondent

Present: Mr. Amit Jaiswal, Advocate
for the petitioner.

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 03.10.2023 (Annexure P-1) passed by the Additional Sessions Judge, Ambala, whereby, the application for exemption from personal appearance was dismissed and bail of the petitioner was cancelled and his bail bonds/surety bonds were forfeited and further seeking quashing of order dated 30.10.2023 (Annexure P-5), whereby, application for recalling the order dated 03.10.2023 was dismissed and non-bailable warrants were issued against the petitioner in a case bearing criminal complaint registration No. 999/2015 dated 24.07.2015 titled as '*Paramjit Singh Vs. Subhash Kumar Sehgal.*'

2. Learned counsel appearing for the petitioner, *inter alia*, contends that the petitioner was on bail and he was appearing regularly. On 03.10.2023, the petitioner could not appear before the learned trial Court as he was not well and doctor advised him rest. On the same day, the accused/petitioner filed an application for exemption from his personal appearance and the same was dismissed. Bail of the petitioner was cancelled and his bail bonds/surety bonds

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were forfeited to the State. Notice to his surety and identifier was also issued for 30.10.2023. On 30.10.2023, the accused/petitioner moved an application for recalling the order dated 03.10.2023 and for exemption from his personal appearance for that day i.e. 30.10.2023 (Annexure P4) and the same was dismissed and non-bailable warrants were issued against him for 17.11.2023. Aggrieved by the said impugned orders dated 03.10.2023 (Annexure P-1) and 30.10.2023 (Annexure P-5), the petitioner has approached this Court by way of instant petition.

3. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

4. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance.

5. A perusal of the orders dated 03.10.2023 (Annexure P-1) and 30.10.2023 (Annexure P-5) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it cannot necessarily be construed as a deliberate and wilful absence. The explanation offered for non appearance of the petitioner before the trial Court is justified and, therefore, the same is accepted.

6. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests

of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

7. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

8. In view of the aforesaid facts and circumstances, the present petition is allowed 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 respondent. The impugned orders dated 03.10.2023 (Annexure P-1) and 30.10.2023 (Annexure P-5), vide which the bail bonds/surety bonds of the petitioner was cancelled and non-bailable warrants were issued, respectively are hereby set aside.

9. The petitioner is directed to appear before the trial Court within a period of 15 days from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Ambala, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

20.11.2023
Neha

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