

CRM-M-59181-2023
Date of decision: 23.11.2023

Versus

State of Punjab ...Respondent

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Ms. Navreet Kaur Barnala, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 16.08.2023 (Annexure P-5) passed by the learned Additional Chief Judicial Magistrate, Amritsar, vide which the bail of the petitioner was cancelled in a case bearing FIR No.0087 dated 09.04.2021 under Section 188 of IPC registered at Police Station Sadar Amritsar, District Amritsar (Annexure P-1).

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was granted bail vide order dated 08.07.2022 (Annexure P-2) passed by the learned Additional Chief Judicial Magistrate, Amritsar and copies of challan and other documents were supplied to the accused/petitioner under Section 207 of Cr.P.C. On 01.04.2023, the case was adjourned to 16.05.2023 for consideration on application for discharge of the accused/petitioner but the accused/petitioner noted down the wrong date i.e. 25.10.2023 instead of 16.05.2023 due to which he could not put in appearance before the learned trial

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Court on that day and notice to him was issued for 16.08.2023. On 16.08.2023, due to non-appearance of the accused/petitioner, his bail order was cancelled. Bail bonds/surety bonds were forfeited to the State and he was summoned through non-bailable warrants of arrest for 27.10.2023. He further contends that on 25.10.2023, when accused/petitioner contacted his counsel, it came to his knowledge that his bail order was cancelled vide order dated 16.08.2023 (Annexure P-5). On 27.10.2023, the petitioner was summoned through proclamation warrants under Section 82 of Cr.P.C. for 20.01.2024 with a direction to the serving official to execute the proclamation on or before 15.12.2023. Thereafter, the accused/petitioner moved an application for grant of anticipatory bail on 31.10.2023 but the same was dismissed on 02.11.2023 being not maintainable.

3. Learned counsel appearing for the petitioner submits that the non-bailable warrants issued to the petitioner were never served and, therefore, the finding of the trial Court that the petitioner is intentionally concealing, is erroneous. Further, the trial Court vide order dated 27.10.2023 (Annexure P-6) observed that since non-bailable warrants have been received back unexecuted, the proclamation warrant under Section 82 Cr.P.C. was issued for 20.01.2024. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of the petitioner due to his act of noting down the date wrongly.

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

5. Notice of motion.

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6. Ms. Navreet Kaur Barnala, AAG, Punjab who is present in Court, accepts notice for the respondent and supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, non-bailable warrants and proclamation were issued against him to secure his presence.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

8. 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.

9. The sole purpose of issuance of non-bailable warrants or issuance of proclamation 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.

10. In view of the aforesaid facts and circumstances, the present petition is allowed, and the impugned order dated 16.08.2023 (Annexure P-5) vide which the bail granted to the petitioner was cancelled and he was summoned through non-bailable warrants of arrest.

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11. 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, Amritsar, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

23.11.2023
Neha

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