

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

CRM-M No.59275 of 2023

Decided on:28.11.2023

Bimlesh @ Vimesh @ Vimlesh Kumar

... Petitioner

Versus

State of U.T. Chandigarh

... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Robin Singh Hooda, 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 04.08.2023 (Annexure P-4) passed by the learned Judicial Magistrate 1st Class-1, U.T. Chandigarh 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 FIR No.55 dated 12.04.2019 registered under Sections 420, 120-B, 467, 468, 472, 474, 475 IPC at Police Station Sarangpur, U.T., Chandigarh.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was arrested in the aforesaid case on 13.04.2019 and was enlarged on regular bail vide order dated 20.09.2019 passed by this Court in CRM-M No.39019 of 2019. Thereafter, the petitioner was regularly appearing before the learned trial Court. However, on 04.08.2023, he could not put in appearance before the trial Court due to unavoidable circumstances and presence of his counsel could also not be marked. The learned trial Court vide impugned order dated 04.08.2023 cancelled the bail of the petitioner and his bail bonds and surety bonds were forfeited to the State. Further the presence of the petitioner was ordered to be secured through

non-bailable warrants and notice under Section 446 Cr.P.C. was issued to his surety.

3. It is further contended that the petitioner could not appear on one date and therefore, the order passed by the trial Court without assigning any reason or recording its satisfaction that the petitioner is not appearing deliberately and intentionally or concealing himself is not sustainable in the eyes of law. The petitioner was appearing regularly before the trial Court. It is also contended that the petitioner is ready to join proceedings and undertakes to remain present on each and every date of hearing.

4. Notice of motion.

5. Mr. Anupam Bansal, Addl. P.P., U.T., Chandigarh for Mr. Shashank Bhandari, Addl. P.P. U.T., Chandigarh accepts notice of behalf of the respondent-U.T., Chandigarh and submits that neither the petitioner nor his counsel appeared on the date fixed before the trial Court, much less, there was not even an application filed seeking exemption from personal appearance, thus, the impugned order does not warrant any interference.

6. I have heard learned counsel for the parties and perused the paper book with their able assistance. With the consent of parties, the matter is taken up for final disposal.

7. A perusal of the case file would reveal that the petitioner was appearing regularly before the trial Court. He could not appear on 04.08.2023, on which date itself, the trial Court cancelled his bail and forfeited his bail bonds and surety bonds to the State, while issuing non-bailable warrants to secure his presence. This Court in the judgment passed in ***Major Singh @ Major Vs. State of Punjab 2023 (3) RCR (Criminal) 406*** has held that absence of accused merely on one date before the trial Court is not sufficient to conclude that he is

concealing himself and cannot be sole ground for issuance of non-bailable warrants. Further, the impugned order is bereft of satisfaction recorded by the trial Court, much less, any reason on the basis of which the trial Court came to the conclusion that non-appearance of the petitioner was intentional and he was concealing himself from the process of law. Moreover, the petitioner himself came forward to join the proceedings and further undertakes to attend court proceedings on each and every date.

7. In view of the aforesaid facts and circumstances, the impugned order dated 04.08.2023 (Annexure P-4) is set aside. The petitioner is directed to surrender before the trial Court on or before 07.12.2023 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, U.T., Chandigarh.

8. 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.

9. The instant petition stands allowed in above terms.

(HARPREET SINGH BRAR)
JUDGE

November 28, 2023
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No