

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

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CRM-M-63948-2023 (O&M)
Date of decision: 19.12.2023

Hemant Kumar**...Petitioner**

Versus

Union Territory Chandigarh**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Rajesh Bhateja, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner under Section 482 Cr.P.C. seeking setting aside of order dated 14.11.2022 (Annexure P-13), passed by the Court of learned Judicial Magistrate First Class, Chandigarh in case bearing No. PCH-1472-2020, titled as ***State vs. Hemant Kumar***, arising out of FIR No. 101 dated 17.08.2019, registered under Section 498-A IPC at Police Station Women, Chandigarh, whereby the trial Court had cancelled the bail of the petitioner, forfeited his personal as well as surety bonds to the State and had given directions to issue non-bailable warrants against him.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered against the petitioner and some other persons by his wife making allegations of

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commission of offence punishable under Section 498-A IPC. The petitioner had been extended benefit of anticipatory bail in this case. He has been facing trial and regularly appearing before the trial Court. As on 14.11.2022, he was in Amritsar and was unable to appear in the Court, he had given instructions to his local counsel to move an application for exempting his presence for that date but due to some miscommunication between him and his counsel, no such application was filed and none had appeared on his behalf on the said date. Consequently, the impugned order has been passed.

3. It is submitted by learned counsel for the petitioner that the absence of the petitioner on 14.11.2022 was not intentional or willful but it was due to reasons aforementioned. It is submitted that he had tried to contact his counsel thereafter by making several phone calls but the latter did not respond to the same. He did not come to know about issuance of non-bailable warrants against him as the same were not received by him. It is submitted that the petitioner has come to know about cancellation of his bail only when the police officials raided his house for execution of non-bailable warrants issued for 12.01.2024. A prayer has accordingly been made by learned counsel for the petitioner to set aside the impugned order.

4. I have heard learned counsel for the petitioner and have also perused the record carefully.

5. It is revealed from the copies of orders passed by the trial Court, which have been placed on record, that the bail of the petitioner had been cancelled on 14.11.2022 due to his non-appearance. Thereafter, non-bailable warrants were issued against him but the same were not received back executed. These orders do not reflect that the petitioner had been intentionally

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avoiding execution of warrants issued subsequent to 14.11.2022. The absence of the petitioner from the trial Court does not appear to be intentional or willful. Although, no infirmity or illegality is found in the order passed by the trial Court, however, keeping in view the submissions made in the petition, the same is disposed of with a direction to petitioner to surrender before the trial Court on or before the date fixed i.e. 12.01.2024 and on doing so, the trial Court shall release him on bail, subject to his furnishing fresh bail/surety bonds to its satisfaction. Till the date, the petitioner surrenders before the trial Court, his arrest shall remain stayed.

6. However, this order will be subject to payment of costs of Rs. 5,000/-, to be deposited by the petitioner with the District Legal Services Authority, concerned.

19.12.2023

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No