

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

130

**CRM-M-64017-2023(O&M)
Date of decision: 19.12.2023**

GURMIT SINGH @ GURMEET SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Gurmeet Singh Saini, Advocate for the petitioner.

SANJIV BERRY. J. (Oral)

By way of present petition preferred under Section 482 CrPC, the petitioner has sought quashing of the impugned order dated 02.11.2023 (Annexure P-32) passed by learned Additional Chief Judicial Magistrate, Moga in case titled as ‘State Vs. Bohar Singh and others’ arising out of FIR No.5 dated 03.01.2013 under Sections 420 and 447 IPC; Section 13-A of the Punjab Village Common Land Regulation Act, 1963 registered at Police Station Sadar Moga, District Moga.

2. It is *inter alia* contended by learned counsel for the petitioner that the instant FIR was registered way back in the year 2013 and the petitioner was granted the concession of anticipatory bail and he joined the investigation. Thereafter, supplementary challan against the petitioner was presented on 02.07.2021 (Annexure P-14) and he had been regularly appearing in the Court. However, on 21.10.2023, the petitioner could not appear due to some misunderstanding between the petitioner and his counsel and thereafter the petitioner did not receive any notice. He has referred to the order dated 02.11.2023 (Annexure P-32) to submit that even it is recorded in the order that the notice

issued to petitioner was not received back either served or un-served but the learned Court proceeded to cancel the bail bonds of the petitioner and directed him to be served through warrants of arrest for 22.12.2023.

3. Notice of motion.

4. On the asking of the Court, Mr. Subhash Godara, Additional A.G. Punjab accepts notice on behalf of respondent-State and has not disputed the factual matrix.

5. Heard.

6. After hearing the respective submissions and considering the averments made in the petition and perusing the record, admittedly the instant FIR was registered in the year 2013 and petitioner was granted the concession of anticipatory bail. It is not disputed that the petitioner had joined the investigation and supplementary challan qua him was presented on 02.07.2021 (Annexure P-14). It is also evident that the petitioner had been regularly appearing thereafter in the Court and absented only on 21.10.2023, which according to learned counsel for the petitioner, is due to mis-communication of date between him and his counsel. It is evident from the perusal of the impugned order that the notice issued for the presence of the petitioner was not received back in the Court and in that event the trial Court ought to have issued fresh notice rather than proceeding to cancel the bail bonds/surety bonds of the petitioner and forfeiting it to the State without there being any service of notice upon the petitioner. Therefore, considering all these facts and without commenting on the merits of the case, the present petition is allowed and the order dated 02.11.2023 is set aside.

7. Petitioner is directed to appear before the Trial Court/Duty Magistrate concerned, on 22.12.2023, the date already fixed and on so doing, he is ordered to be admitted on bail on his furnishing personal/surety bonds to the

CRM-M-64017-2023(O&M)

satisfaction of the concerned Court/Duty Magistrate. The petitioner will also furnish a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency will he seek prior exemption from the Court in accordance with law. He will not tamper with the evidence nor will influence the witnesses He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.

(SANJIV BERRY)
JUDGE

19.12.2023
S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/ No