

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-3779-2024
Date of decision : 25.01.2024

Gurinder Singh Shergill

... Petitioner

Versus

State of U.T. Chandigarh and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Ferry Sofat, Advocate
for the petitioner.

Mr.Manish Bansal, PP and
Mr.Navjit Singh, Advocate
for respondent-U.T. Chandigarh.

VIKAS BAHL, J.(ORAL)

1. This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 16.12.2023 (Annexure P-16) passed by the Chief Judicial Magistrate, Chandigarh whereby the Court has cancelled the bail granted to the petitioner and has ordered the issuance of non-bailable warrant to secure the attendance of the petitioner in case numbered PCH/4637/2021 titled as “State of UT, Chandigarh Vs. Gurmeet Singh and others” in FIR No.324 dated 24.10.2020 registered under Section 188 of Indian Penal Code, 1860 at Police Station Sector 39, Chandigarh.
2. Learned counsel for the petitioner has submitted that the petitioner has utmost respect for the Courts and on 16.12.2023, on account of his pre-occupation, he had moved an application for exemption which has been rejected and non-bailable warrant has been issued and the case is now fixed for 03.02.2024. It is further submitted that the petitioner

undertakes to appear before the trial Court on 03.02.2024 and also on the date further fixed by the trial Court as the statement of the petitioner under Section 313 Cr.P.C. is to be recorded. It is also contended that although, on earlier occasions also, the petitioner had sought exemption from personal appearance but on account of the said fact, the trial has not been delayed and for the said purpose, reference has been made to the zimni orders which have been annexed along with the present petition. It is further submitted that the offence under Section 188 of IPC is a bailable offence.

3. Learned counsel appearing on behalf of the respondents has opposed the present petition and has submitted that on several dates, the petitioner has filed the applications for exemption from personal appearance and since the case was fixed for recording of statement under Section 313 Cr.P.C., thus, any further application for exemption from personal appearance filed would result in delaying the matter. It is submitted that at any rate, the petitioner be directed to appear on 03.02.2024 and on the date thereafter, so that the statement of the petitioner under Section 313 Cr.P.C. is recorded and the matter does not get delayed any further.

4. This Court has heard learned counsel for both the parties and has perused the paper book.

5. It is not in dispute that the petitioner had moved an application seeking exemption from appearance on 16.12.2023 and the same was rejected and on the same date, non-bailable warrant was issued and notice was also issued to the surety. The case is now stated to be listed for 03.02.2024. The petitioner has undertaken to appear on 03.02.2024 and also to get his statement recorded under Section 313 Cr.P.C. and also in case, the case is adjourned to any further date, the petitioner undertakes to appear till the

time his statement under Section 313 Cr.P.C. is not recorded. The whole

purpose is to secure the presence of the petitioner before the trial Court for the purpose of recording his statement under Section 313 Cr.P.C. Moreover, the offence under Section 188 of IPC is a bailable offence.

6. Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 16.12.2023 is set aside, subject to the condition that the petitioner would appear before the trial Court on 03.02.2024 to get his statement recorded under Section 313 Cr.P.C. and in case for any reason the matter is adjourned, he would also appear on the adjourned date and even thereafter till the time his statement under Section 313 Cr.P.C. is not fully recorded. In case, the petitioner appears on the next date of hearing before the trial Court on 03.02.2024, then the petitioner would be released on bail on the same surety bonds as were earlier given by the petitioner.

(VIKAS BAHL)
JUDGE

January 25, 2024.
Davinder Kumar

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