

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

137

CRM-M-4421-2024 (O&M)
Date of decision : 29.01.2024

Pawan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. B. S. Beniwal, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed under Section 482 of Cr.P.C. by the petitioner seeking quashing of order dated 19.09.2023, passed by the Additional Sessions Judge, Fatehabad in **CRA-231-2023**, titled as **Pawan vs. State of Haryana**, whereby the bail of the petitioner has been cancelled and personal/surety bonds have been forfeited to the State and arrest warrants have been issued against him.
2. Learned counsel for the petitioner submits that the petitioner had been convicted by the trial Court for commission of offences punishable under Sections 354-A(1)(i), 354-B and 323 of the IPC, vide judgment of conviction dated 11.04.2023 and order on quantum of sentence dated 13.04.2023. He had filed an appeal before the lower appellate Court challenging the same along with an application under Section 389 Cr.P.C. for suspending his sentence during the pendency of the appeal. The lower

appellate Court, vide order dated 09.05.2023, while issuing notice to the respondent for 19.09.2023, had suspended the sentence of the petitioner during the pendency of the appeal. However, the petitioner could not appear before the lower appellate Court on 19.09.2023 due to noting down the next date as '19.02.2024' instead of '19.09.2023', which was the actual date fixed in the appeal. Consequent thereto, his bail has been cancelled by the lower appellate Court; personal/surety bonds have been forfeited to the State and arrest warrants have been issued against him. He further submits that the absence of the petitioner was neither willful nor deliberate and was only on account of the reason as aforesaid. He further submits that the petitioner is ready and willing to join the proceedings and prays that one more opportunity may be granted to him to surrender before the Court.

3. I have heard learned counsel for the petitioner and have perused the material placed on record. A perusal of the zimini order dated 09.05.2023, placed on record by the petitioner, shows that his sentence was suspended by the lower appellate Court during the pendency of the appeal and notice was issued to respondent for 19.09.2023. However, he absented on the said date, consequent to which, his personal and surety bonds have been forfeited to the State and arrest warrants have been issued against him. The petitioner has submitted that he is willing to join Court proceedings and has also undertaken that he will appear on each and every date fixed by the Court. Since the absence of the petitioner on the said date seems to be under a *bona fide* impression that the case was fixed for 19.02.2024, this Court is of the opinion that he should be given one more opportunity to appear before the Court.

4. Accordingly, the present petition is disposed of. The petitioner

is directed to surrender before the lower appellate Court within a period of 15 days from today. On doing so, the lower appellate Court shall release him on bail, subject to his furnishing fresh personal/surety bonds to its satisfaction. Till the appearance of the petitioner before the Court, his arrest shall remain stayed.

5. This order, however, will be subject to payment of costs of Rs. 10,000/-, to be deposited by the petitioner before concerned Court at the time of surrender and the same shall be given by the Court to the complainant after giving notice to her.

29.01.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>