

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-7824 of 2024
Date of Decision: February 15, 2024

Amit Bhatia

.....Petitioner

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present: Mr. Aditya Jain, Advocate
for the petitioner.

Mr. Gagandeep Singh Chinna, AAG Haryana

HARPREET SINGH BRAR, J. (ORAL)

1. The prayer in the present petition under Section 482 Cr.P.C. is for quashing the impugned orders dated 13.12.2023, 21.12.2023, 03.01.2024, 16.01.2024, 24.01.2024 and 03.02.2024 (Annexures P-9 to P-14) respectively whereby bail order of the petitioner has been cancelled and his bail bonds and surety bonds were forfeited to State and he was summoned through non-bailable warrants in case FIR No. 694 dated 27.11.2014 registered under Sections 406, 420, 120-B IPC at Police Station Faridabad Central, District Faridabad.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner and complainant/respondent No. 2 were having business dealings and the present dispute of sale and purchase of property was purely civil in nature but it has been given the color of criminal prosecution. It is submitted that after registration of the FIR all the accused were arrested and granted the concession of bail. The prosecution evidence was closed on 22.12.2023 and the matter was fixed for recording the statement of accused under Section 313 Cr.P.C.,

however, the prosecution moved an application for summoning and re-examination of PW-9 Vijay Sandwal, PW-1 Branch Operation Manager, PW-2 HDFC Bank, PW-3 PNB Bank and PW-4 Manager Robert Buildwell on the ground that evidence of these witnesses were recorded in the absent period of petitioner. The said application moved by the prosecution was allowed by the trial Court vide order dated 24.02.2023. Being aggrieved, the petitioner has challenged the said order dated 24.02.2023 passed by the trial Court before this in CRM M-34350-2023 titled as *Amit Bhatia vs. State of Haryana and another* and in the said case this Court issued notice of motion for 19.04.2024, while staying the operation of impugned order dated 24.02.2023. The grievance of the petitioner is that on 13.12.2023, he sought exemption from the trial Court from personal appearance. However, his exemption application was declined. Consequently, his bail order was cancelled and his bail bond and surety bond were forfeited to State and he was ordered to be summoned through non-bailable warrants. His non-bailable warrants were again issued on the subsequent dates on 21.12.2023, 03.01.2024, 16.01.2024, 24.01.2024 and 03.02.2024.

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he has approached this Court by way of instant petition. It is contended that the impugned orders are liable to be set aside on the ground of unintentional non-appearance of the petitioner.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date of hearing.

5. Notice of motion.

6. Mr. Gagandeep Singh Chinna, AAG Haryana who is present in Court, accepts notice for the respondent and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

8. Perusal of impugned orders reflect that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and wilful absence. The explanation offered for non appearance before the trial Court is justified and, therefore, the same is accepted.

9. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

10. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the trial Court. The petitioner in the present case

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has himself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the present petition is allowed without issuing notice to the respondent No.2 in order to save time of the Court and to avoid litigation expenses to be incurred on the part of respondent No.2. impugned orders dated 13.12.2023, 21.12.2023, 03.01.2024, 16.01.2024, 24.01.2024 and 03.02.2024 (Annexures P-9 to P-14) are hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of 15 days from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Faridabad, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

February 15, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No