

CRM-M-10114-2024
Date of decision: 27.02.2024

Rohit @ Rohit KumarPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Sharma, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing the impugned order dated 15.12.2023 (Annexure P-3) passed by the learned trial Court vide which warrant of arrest and notice to surety was issued for 20.01.2024 and impugned order dated 20.01.2024 (Annexure P-4) vide which proclamation under Section 82 of Cr.P.C. has been issued for 01.03.2024 as earlier warrant of arrest received back unserved in FIR No.256 dated 14.1.2017 under Section 379-B of IPC registered at Police Station Division No.4, District Ludhiana.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and was regularly appearing before the learned trial Court, however, on 15.12.2023, the petitioner could not appear before the trial Court as he has noted down the wrong date due to which

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communication gap occurred between the present petitioner and his counsel, on account of which, warrants of arrest and notice to surety of the petitioner were issued for 20.01.2024. When the petitioner contacted his counsel, he came to know about next date i.e. 20.01.2024 and being afraid of arrest, he did not appear before the Court on 20.01.2024. Thereafter, proclamation proceedings were also initiated against him vide order dated 20.01.2024 (Annexure P-4).

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 order is liable to be set aside on the ground of unintentional non-appearance of the petitioner due to miscommunication and act of noting down the date wrongly.

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

5. Notice of motion.

6. Mr. Subhash Godara, Addl.A.G., Punjab, 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. A perusal of the orders dated 15.12.2023 (Annexure P-3) and

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20.01.2024 (Annexure P-4) reflect that the trial Court proceeded to pass an extreme order 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 warrants of arrest or proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case 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. The impugned orders dated 15.12.2023 (Annexure P-3) and 20.01.2024 (Annexure P-4), vide which warrants of arrest and notice to surety were issued and proclamation proceedings initiated, are hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of two weeks 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

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Court, along with costs of Rs.10,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

27.02.2024
Neha

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