

CRM-M-10671-2024
Date of decision: 29.02.2024

Lovejit Singh

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ankit Kharbanda, Advocate
for the petitioner.

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

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing the impugned order dated 13.12.2023 (Annexure P-5) passed by the learned trial Court, whereby, the bail order has been cancelled and bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State and further proclamation of the petitioner has been issued in case bearing FIR No.0257 dated 24.09.2019 (Annexure P-1) under Sections 382/341/323/506/34 of IPC registered at Police Station Sadar Amritsar, District Amritsar and all consequential proceedings arising therefrom.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and after the registration of the above said FIR, the report under Section 173 Cr.P.C. being presented by the police was accepted by the concerned Court in the absence of the petitioner without giving any prior intimation to him. Thereafter, due to outbreak of pandemic COVID-19, on 25.11.2021, 25.03.2022, 02.07.2022, 14.10.2022 and 11.01.2023, when

the case was fixed before the learned trial Court, the petitioner could not appear as the notices issued to him were never served upon him. Thereafter, presence of the accused/petitioner was secured through issuance ofailable warrants for 17.03.2023, 15.04.2023 & 02.05.2023 but petitioner could not appear again as theailable warrants issued against him were never served upon him. On 13.06.2023, 20.09.2023 & 13.12.2023, non-ailable warrants were issued against the petitioner and he could not appear as the same were remained unexecuted and on account of receipt of report regarding non-ailable warrants issued against the accused received back unexecuted, on 13.12.2023, the trial Court issued proclamation under Section 82 of Cr.P.C. against the petitioner.

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.

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 order dated 13.12.2023 (Annexure P-5) reflects 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 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 order dated 13.12.2023 (Annexure P-5), vide which the bail bonds and bail order of the petitioner was cancelled and forfeited to the State followed by initiation of proclamation proceedings against him, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a

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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 Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Amritsar, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

29.02.2024
Neha

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