

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

130 CRM-M-10628-2024
Date of Decision.:29.02.2024

Yogesh Kumar @ YogiPetitioner
Vs.
State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Vedant Setia, Advocate with
Mr. Sukhpreet Singh, Advocate
for the petitioner.

DEEPAK GUPTA, J. (ORAL)

By way of this petition filed under Section 482 Cr.P.C., prayer is made to quash order dated 01.11.2023 (Annexure P-2) passed by learned trial Court, whereby bail of the petitioner was cancelled and warrants of arrest were directed to be issued during the proceedings of the case FIR No.0018 dated 03.02.2021 registered under Sections 25/54/59 of Arms Act registered at Police Station City Kotkapura, District Faridkot, Punjab.

The impugned order dated 01.11.2023 (Annexure P-2) reads as under:-

“State Versus Yogesh Kumar *CHA-224-2022.*

Present: Sh. S.S.Gill, APP for the State.
Accused Yogesh Kumar absent.

PW ASI Sukhdev Singh is present but could not be examined as accused Yogesh Kumar has not appeared in the Court despite calling the case several times since morning. Perusal of the file reveals that earlier accused Yogesh Kumar was appearing in the

present case and abovesaid PW Sukhdev Singh was partly cross-examined on 06.12.2022 and his further cross-examination was deferred on the request of learned defence counsel and there-after again on 20.04.2023 proxy counsel requested for an adjournment to cross-examine the said witness and again last opportunity was granted to to cross-examine the said witness and there-after again on 02.08.2023 learned counsel for accused requested for an adjournment to cross-examine the said witness. Thus, it is apparent from the previous conduct of the accused that he is causing undue delay in the trial and rather avoiding to conduct the cross-examination of the witness on flimsy grounds and today accused has absented himself from the Court proceedings without any intimation and he has not appeared despite the case having been called since morning. Therefore this Court is of the considered opinion that accused is intentionally not appearing in the Court and has misused the concession of bail granted to him. Accordingly, his bail bonds and surety bonds are forfeited in favour of the State. Now, accused Yogesh Kumar be summoned through non-bailable warrants for 11.01.2024. Present PW ASI Sukhdev Singh is discharged for the time being.

Dated: 01.11.2023

Mukesh Kumar

*(Ajay Pal Singh)
Judicial Magistrate Ist Class,
Faridkot
UID No.PB0325”*

The bare perusal of the aforesaid order would reflect the conduct of the petitioner inasmuch as despite the presence of the witness namely PW Sukhdev Singh on various dates, he has not been cross-examined by the defence counsel.

Learned counsel for the petitioner submits that petitioner is ready to surrender before the Trial Court and will not take any other date for

cross-examining the witness and that he be provided necessary protection.

Notice of motion.

Mr. Sahil R. Bakshi, AAG, Punjab accepts notice on behalf of respondent- State.

This petition is hereby disposed of with the direction to petitioner to surrender before the trial Court on 07.03.2024, the date stated to be already fixed.

This order is subject to the condition that petitioner will pay the cost of ₹10,000/- to PW Sukhdev Singh by way of demand draft on account of the conduct of the petitioner as reflected in order dated 01.11.2023.

In addition to this, before entertaining the application of the petitioner for grant of fresh bail, the trial Court will initiate proceedings under Section 446 Cr.P.C. against the petitioner and after disposal thereof, shall admit the petitioner to bail.

It is made clear that till the disposal of proceedings under Section 446 Cr.P.C., petitioner shall not be taken into custody. If in the meantime, petitioner is sought to be arrested on account of warrants of arrest having being issued against him, he shall be admitted to interim bail to the satisfaction of Arresting Officer.

(DEEPAK GUPTA)
JUDGE

February 29, 2024

Neetika Tuteja

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No