

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-14823-2024
DECIDED ON: 21.03.2024**

SANJAY MENDIRATTA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Munish Behl, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. for quashing of order dated 22.11.2023 (Annexure P-4), passed by learned Chief Judicial Magistrate, Sangrur, whereby the bail of the petitioner has been ordered to be cancelled and his bail/surety bonds were forfeited to the State in FIR No.224, dated 10.12.2021 (Annexure P-1), under Section 420 IPC and Section 13 of the Public Gambling Act, 1887, registered at Police Station City Sangrur, District Sangrur with all consequential proceedings arising therefrom.

Learned counsel for the petitioner contends that in the instant case the challan has not been presented so far after completion of investigation and as such, he could not put in appearance before the trial Court on the date fixed firstly on 11.04.2023 for which he duly moved an application for exemption from personal appearance which was considered and allowed. Subsequently thereto, again on 19.07.2023 an application on

the same ground was moved for exemption from personal appearance which was also allowed but on 22.11.2023, the petitioner due to miscommunication gap with his counsel before the trial Court could not move the necessary application for exemption since the challan was not presented under mistaken belief and hence due to *bona fide* error stayed absent from the trial proceedings and on that account, his bail was cancelled and bail/surety bonds were forfeited to the State.

He undertakes that the petitioner will surrender before the trial Court and shall join the trial proceedings without any delay or default in future.

Notice of motion.

On the asking of the Court, Mr. Rajiv Verma, DAG, Punjab accepts notice on behalf of the respondent-State, who is not averse to the undertaking given by the petitioner that he will surrender before the trial Court.

Considering the aforesaid factual aspects and the *bona fide* of the petitioner since the absence *prima facie* appears to have occurred on account of mis-communication between him and his counsel for the date fixed before the trial Court, as such, the application for exemption from personal appearance could not be filed by him under mistaken belief due to non-filing of the challan in Court.

As the investigation stood completed much prior in time, this Court is obvious of the fact that surrender of the petitioner before the trial Court would help in furtherance of trial and to secure the ends of justice.

In view of the above, the petitioner is directed to surrender before the trial Court within a period of 10 days from today and apply for regular bail.

In case, such an application for bail is moved by the petitioner before the learned trial Court, the same shall be considered on the same date and decided in accordance with law.

However, it is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.

The aforesaid order/concession to the petitioner shall be subject to payment of costs of Rs.10,000/- to be deposited with the Punjab and Haryana High Court Bar Clerk Association, Chandigarh and a receipt of the same be produced before the Trial Court and only in that eventuality, application of the petitioner for seeking bail be considered.

The instant petition is disposed of in the aforesaid terms.

21.03.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No