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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14916-2024 (O&M)
Date of decision: 21.03.2024

Ranjit Singh @ Laddu

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Bhupinder Kumar Gupta, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing the impugned orders dated 05.01.2024 (Annexure P-5), dated 03.02.2024 (Annexure P-6) and dated 19.02.2024 (Annexure P-7) passed by the learned Judicial Magistrate 1st Class, Nakodar, District Jalandhar, in case bearing No.CHA/288/2020 arising out of FIR No.150 dated 09.07.2020 (Annexure P-1), under Section 61/1/14 of Punjab Excise Act, 1914, registered at Police Station Lohian, District Jalandhar Rural, vide which the petitioner has been summoned through non-bailable warrants of arrest and the order dated 15.02.2024 (Annexure P-6) passed in FIR No.36 dated 04.04.2020 under Sections 61/1/14 of Punjab Excise Act, 1914, registered at

Police Station Anandpur Sahib, District Rupnagar, vide which proceedings for declaring him as proclaimed offender have been initiated as well as all consequential proceedings emanating therefrom.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that that the petitioner was on anticipatory bail and was regularly appearing before the learned trial Court, however, in the month of November, 2023, wife of the petitioner was suffering with illness and was undergoing treatment and the petitioner had to put all of his resources for securing best treatment for her. In the meantime, the petitioner had to appear in the trial arising out of FIR No.21 dated 03.03.2020 under Sections 323, 324, 201 of the Indian Penal Code, 1860, registered at Police Station Lohian, District Jalandhar before the learned Judicial Magistrate 1st Class, Nakodar, District Jalandhar, which was fixed for final hearing and the vide judgment dated 16.11.2023, he was convicted and sentence to undergo rigorous imprisonment for a period of one year, in FIR No.21 (*supra*). Due to the reasons aforesaid, the petitioner could not file an appeal against judgment dated 16.11.2023 in time and in the month of February, 2024, the petitioner moved an application before the learned trial Court for extension of time to file the appeal, which was allowed vide order dated 15.02.2024. Thereafter, the petitioner filed an appeal before the learned Sessions Judge, Jalandhar, in which sentence of the petitioner stands suspended vide order dated 27.02.2024. On account of aforesaid circumstances, on 29.11.2023, when the petitioner could not appear before the trial Court, non-bailable warrants were

issued against him for 05.01.2024. On 05.01.2024, the learned trial Court cancelled the bail/surety bonds of the petitioner and again non-bailable warrants were issued for 03.02.2024 and on that date again, non-bailable warrants were issued for 19.02.2024 and ultimately, on 19.02.2024, while issuing non-bailable warrants for third time, proclamation under Section 82 Cr.P.C. was issued and the case was adjourned to 11.04.2024. Aggrieved by the impugned orders, the petitioner has approached this Court by way of instant petition.

3. Learned counsel for the petitioner further contended that the impugned orders are liable to be set aside on the ground that the mandate of Section 82 Cr.P.C. has not been followed in its letter and spirit by the learned trial Court. In support of his arguments, learned counsel relies upon the judgment passed by this Court in ***Sonu Vs. State of Haryana 2021 (1) RCR (Cri.) 319*** and the judgment passed by the Gujarat High Court in ***Govindbhai Patel Vs. State of Gujarat 2004 (4) RCR (Criminal) 830***.

4. 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 orders, 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, as stated above.

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

6. Notice of motion.

7. Mr. Subhash Godara, Addl. AG, Punjab, who is present in Court, accepts notice on behalf of the respondent and submits that the impugned orders have 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.

8. 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.

9. A perusal of the order dated 19.02.2024 (Annexure P-7) reflects that the trial Court proceeded to initiate proceedings under Section 82 Cr.P.C. 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 willful absence. The explanation offered for non-appearance before the trial Court is justified and, therefore, the same is accepted.

10. 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.

11. 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.

12. In view of the aforesaid facts and circumstances, present petition is allowed. The impugned orders dated 05.01.2024 (Annexure P-5) and dated 03.02.2024 (Annexure P-6), vide which the petitioner has been summoned through non-bailable warrants of arrest and the dated 19.02.2024 (Annexure P-7), vide which proceedings under Section 82 Cr.P.C. have been initiated, are hereby set aside.

13. The petitioner is directed to appear before the trial Court within a period of four weeks from today and on his doing so, he shall be admitted to bail on his furnishing bail/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, Jalandhara, for wasting precious time of the Court.

[HARPREET SINGH BRAR]
JUDGE

21.03.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No