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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15354-2024 (O&M)
Date of decision: 22.03.2024

Hetram

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.P. Jangu, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The prayer in the present petition under Section 482 Cr.P.C. is for quashing the impugned order dated 07.11.2023 (Annexure P-3) passed by the learned trial Court, vide which, while cancelling the bail of the petitioner and forfeiting the bail bonds to the State, he has been summoned through non-bailable warrants of arrest and the order dated 24.01.2024 (Annexure P-4), 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 granted the concession of bail and was regularly appearing before the learned trial Court. Vide orders starting from

17.01.2018 to 04.11.2023, learned trial Court issued notices and summons and non-bailable warrants of arrest to the petitioner and lastly, the case was adjourned to 07.11.2023 and on that date, bail of the petitioner was cancelled and bail bonds were forfeited to the State and non-bailable warrants were issued. It is further contended that the petitioner is a government servant and due to official work, he could not appear before the learned trial Court on 07.11.2023 and vide order dated 24.01.2024 (Annexure P-4), the learned trial Court initiated the proceedings for declaring the petitioner as proclaimed offender. Aggrieved by the said impugned orders, the petitioner has approached this Court by way of instant petition.

3. Learned counsel appearing for the petitioner submits 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, counsel for the petitioner 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. Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice on behalf of respondent No.1-State 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 24.01.2024 (Annexure P-4) reflects that the trial Court proceeded to initiate proceedings for declaring the petitioner as proclaimed offender. 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, the present petition is allowed. The impugned orders dated 07.11.2023 (Annexure P-3) and order dated 24.01.2024 (Annexure P-4) 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 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, Gurugram, for wasting precious time of the Court.

[HARPREET SINGH BRAR]
JUDGE

22.03.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No