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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19356-2024 (O&M)
Date of decision: 20.04.2024

Neeraj Kumar
... Petitioner
Vs.

State of Haryana
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Divya Narula, Advocate
for the petitioner. (*through video conferencing*)

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 438 Cr.P.C. seeking anticipatory bail in case bearing FIR No.497 dated 21.08.2020 under Sections 363 & 366-A of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Sirsa, District Sirsa.
2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was granted regular bail by learned trial Court on 22.07.2022. After filing of the chargesheet, the petitioner was regularly appearing and on 27.02.2024, he could not appear before learned trial Court, as his wife was in critical condition due to pregnancy. On 08.03.2024, wife of the petitioner delivered a premature baby and he was looking after her and his absence is neither willful nor deliberate and he could not appear before learned trial Court due to the aforementioned urgency. Learned counsel has

relied upon medical record of wife of the petitioner (Annexure P-7) to substantiate his arguments. Since warrants of arrest have been issued by learned trial Court vide orders dated 27.02.2024, 04.03.2024, 12.03.2024, 19.03.2024 & 27.03.2024, the petitioner apprehends his arrest.

3. On advance notice, learned State counsel appears and opposes the prayer made by the petitioner on the ground that neither the petitioner appeared nor any application for exemption from personal appearance was moved, therefore, learned trial Court has rightly passed the aforesaid orders, for securing his presence.

4. Having learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds force in the arguments raised by learned counsel for the petitioner. He has shown sufficient cause for non appearance before learned trial Court.

5. A perusal of the order dated 27.02.2024 (Annexure P-2) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail. 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.

6. 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.

7. 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.

8. In view of the aforesaid facts and circumstances, present petition is allowed. The order dated 27.02.2024 (Annexure P-2), vide which the bail/surety bonds and bail order of the petitioner was cancelled and warrants of arrest were issued against him as well as subsequent orders dated 04.03.2024, 12.03.2024, 19.03.2024 & 27.03.2024, issuing warrants of arrest, are hereby set aside.

9. The petitioner is directed to surrender before the learned trial Court and on his doing so, he will be admitted to bail on his furnishing bail/surety bonds to the satisfaction of learned trial Court/Illaq Magistrate concerned.

[HARPREET SINGH BRAR]
JUDGE

20.04.2024
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No