

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-19446-2024

Date of Decision: 22.04.2024

Rajinderpal Kaur @ Rajinder Kaur

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. B.S. Jaswal, Advocate for the petitioner.

NIDHI GUPTA, J. (ORAL)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of impugned order dated 06.04.2024 (Annexure P-7) passed by the learned trial Court, whereby the bail and surety bonds of the petitioner have been cancelled and forfeited to the State and non-bailable warrants were ordered to be issued against the petitioner for 16.05.2024, in case FIR No. 83 dated 05.04.2021 (Annexure P-1) registered under Sections 363, 366-A read with Section 34 IPC at Police Station Beas, District Amritsar.

Learned counsel for the petitioner, *inter alia*, submits that the petitioner is facing trial in the aforesaid FIR (Annexure P-1) and was granted bail vide order dated 16.07.2021 (Annexure P-2) by the learned Additional Sessions Judge, Fast Track Court, Amritsar. Thereafter, she was regularly appearing before the learned trial Court on each and every date; but vide impugned order dated 06.04.2024 (Annexure P-7), the learned trial Court cancelled the bail and surety bonds of the petitioner and same were forfeited to the State, on account of non-appearance of

the petitioner; and non-bailable warrants were ordered to be issued against her for 16.05.2024. Learned counsel for the petitioner refers to the *zimni* orders (Annexures P-4 to P-6) passed by the learned trial Court to submit that the petitioner has been duly putting in appearance before the learned trial Court on each and every date. However, on 06.04.2024, she failed to appear before the learned trial Court, as inadvertently, the petitioner as well as her counsel, have wrongly noted the date of hearing as 16.04.2024 instead of 06.04.2024. It is further submitted that when the petitioner had appeared before the learned trial Court on 16.04.2024, only then she came to know that her bail was cancelled on 06.04.2024, therefore, it is submitted that absence of the petitioner on 06.04.2024 before the learned trial Court was not intentional or deliberate, rather the same was on account of noting down the wrong date. Learned counsel submits that the petitioner is ready and willing to surrender before the learned trial Court on 16.05.2024, the date already fixed before it. Therefore, it is requested that the impugned order dated 06.04.2024 (Annexure P-7) may be set aside. In support of his contentions, learned counsel for the petitioner has placed reliance upon a Three-Judge Bench judgment of Hon'ble the Supreme Court in ***Krishna Sharma Alias Krishna Kumar Sharma vs. The State of West Bengal and another, Law Finder Doc ID # 2481419.***

Notice of motion.

On the asking of Court, Mr. Kunwarbir Singh, AAG, Punjab, accepts notice on behalf of respondent-State.

I have heard learned counsel for the parties and gone through the case file.

In *Krishna Sharma Alias Krishna Kumar Sharma's case (supra)*, the Hon'ble Supreme Court in para 5 thereof; has held as under:-

“5. However, we find that merely because the appellant did not appear personally could not have been a ground for cancellation of bail. The parameters for grant of bail and cancellation of bail are totally different. The bail already granted may be cancelled, if it is found that the person who has been granted the benefit of bail has violated any of the conditions or misused the liberty by influencing the witnesses or tampering with the evidence.”

It is not the case herein that the petitioner has misused the liberty of bail, or violated any of the conditions of bail.

In view of the above and keeping in view the totality of the facts and circumstances of the case, but without commenting upon the merits of the case, the impugned order dated 06.04.2024 (Annexure P-7), whereby the bail and surety bonds of the petitioner have been cancelled and forfeited to the State, and non-bailable warrants were ordered to be issued against her for 16.05.2024, is ordered to be set aside. The petitioner is directed to surrender before the learned trial Court/Duty Magistrate on 16.05.2024, the date already fixed and move an application for regular bail, which shall be considered and disposed of by the learned trial Court/Duty Magistrate on the same day, by accepting fresh bail/surety bonds to be furnished by the petitioner to the satisfaction of the trial Court/Duty Magistrate.

The instant petition stands disposed of, accordingly.

22.04.2024

rishu

(NIDHI GUPTA)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No