

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

127 CRM-M-20772-2024

DATE OF DECISION: 26.04.2024

SHAMSHER SINGH @ MOHIT @ MOTI ...PETITIONER

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Charanpuneet Singh, Advocate for the petitioner.
(through VC)

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

A request has been made on behalf of learned counsel for the petitioner of hearing through VC. The prayer is accepted.

The jurisdiction of this Court has been invoked under Section 482 Cr.P.C., for seeking quashing of order dated 10.01.2023 (Annexure P-5) passed by JMIC, Ludhiana whereby bail bonds of the petitioner was cancelled and non-bailable warrants were issued against the petitioner and also the order dated 04.4.2024 (Annexure P-10) whereby proclamation was issued for 18.05.2024 against the petitioner.

Learned counsel for the petitioner submits the petitioner could not appear in Court on one date i.e. 21.11.2022 due to sudden death of a near relative and had requested his counsel to file an application for exemption from personal appearance but the said application was not filed by the counsel and the Court proceeded with issuance of bailable warrants for 10.01.2023 against the petitioner and the order is annexed as Annexure P-3.

Thereafter, the petitioner was arrested on 08.12.2022 in connection with FIR No. 228/2022 registered at P.S. Model Town, Ludhiana in which the petitioner was granted regular bail on 10.01.2023 by JMIC, Ludhiana. The petitioner was released on 26.01.2023 after furnishing bail bonds and sureties as directed vide order dated 10.01.2023.

In the present case, the petitioner failed to appear in the instant FIR No. 113 dated 11.07.2019 registered at P.S. Dugri, District Ludhiana on account of his arrest in the aforesaid FIR but being unaware of the fact, the bail bonds of the petitioner stood cancelled and non-bailable warrants were issued as per Annexure P-5.

The said non-bailable warrants were never served upon the petitioner wherein several orders were passed as is evident on perusal of the P-6 collectively.

Thereafter, the petitioner is again apprehended in another FIR No. 34 dated 11.08.2023 registered under Sections 379B(1), 34 IPC at P.S. Dugri, Ludhiana and in that case the petitioner was again granted regular bail vide order dated 19.12.2023 passed by this Court after serving custody of more than four months. After getting the regular bail in the aforesaid case, the petitioner approached the counsel who is representing in the Trial Court to enquire about the status of the present case and moved an application for anticipatory bail before the Additional Sessions Judge, Ludhiana which was dismissed on the ground of maintainability vide order dated 04.03.2024 however, 10 days time was granted to surrender by the Addition Sessions Judge, Ludhiana

before the Trial Court and to move a bail application which was directed to be decided in accordance with law.

It is further the case of the petitioner that he was admitted in Orison Detoxification and De-addiction Centre, Ludhiana and was not in a position to surrender. The petitioner is taking treatment from the Centre as on date and a copy of the medical record is also available as Annexure P-9 for this Court to peruse.

Learned counsel for the petitioner contends that on 04.04.2024, the Trial Court proceeded to issue proclamation for 18.05.2024 against the petitioner on account of his non-appearance before the Trial Court on 04.04.2024 and it is against that order this Court has been approached for jurisdiction under Section 482 Cr.P.C.

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, learned State Counsel 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.

Though the aforesaid chain of sequence and circumstances at the same time do not inspire confidence of this Court looking at the conduct of the petitioner who was given various opportunities before the Trial Court but at the same time, the Court cannot ignore the fact that has been narrated in the present FIR that he is undergoing treatment at Orison Detoxification and De-addiction Centre, Ludhiana as is evident from Annexure P-9 and on that account he could not appear on

04.04.2024 before the Trial Court as was directed by the Additional Sessions Judge, Ludhiana vide order dated 04.03.2024 Annexure P-8 but till now he has not been declared as proclaimed person or offender as the proclamation proceedings are still under way and after having noticed of the said proclamation he has approached the Court immediately without any delay. This very fact would give way to believe the bona fide of the petitioner and on that account, he is directed to surrender before the Trial Court within one week from today i.e. on or before 03.05.2024 and move an application for bail. In case he surrenders and move such an application 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 Association, Chandigarh (Account No.65035682434, IFSC Code: SBIN0050306) 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 and decided on the same day in accordance with law.

The instant petition is disposed of in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

26.04.2024

anuradha

Whether speaking/reasonedYes/NoWhether reportableYes/No