

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22159-2024 (O&M)
Date of order: 03.05.2024

Munish Kumar Rai @ Tony
... Petitioner(s)
Versus
State of Punjab
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Anmol Hayer, Advocate for the petitioner(s).

Ms. Swati Batra, DAG, Punjab (through VC)

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
83	20.3.2018	Sadar Ludhiana	307, 34, 120-B IPC and 25 & 27 Arms Act

1. Aggrieved by order of dismissal of bail vide order dated 1.2.2024 passed by Additional Sessions Judge, Ludhiana, due to the default in appearances before the trial court, the petitioner has come up before this court under section 438 of Code of Criminal Procedure, 1973 (CrPC). On the oral request of the petitioner’s counsel, provision of section 482 CrPC is also inserted in this petition, and consequently, this petition shall be treated under 438 read with 482 CrPC.
2. The nature of order this court proposes to pass, no response is required from the respondent.
3. Ld. Counsel for the petitioner contends that the non-appearance was unintentional, without any endeavor to delay the trial, and due to factors beyond the petitioner’s control. In fact, the petitioner was admitted in Drug De-Addiction Centre for treatment of his drug taking habit and mental health. The petitioner was conveyed by his counsel in trial Court that his case is about to be closed and there is no need for his appearance now and due to miscommunication, he could not appear and thus, his bail was cancelled and he was declared as proclaimed person. However, now the petitioner is ready to surrender before the trial Court.

4. The primary object of service is to secure the accused's presence in trial. The petitioner has approached this court on his own, establishing the *bona fide* at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet. Furthermore, without adjudicating the maintainability of this petition under section 482 CrPC and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. Thus, exercising the inherent powers under section 482 CrPC, this court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

5. **The petitioner is directed to surrender before the concerned court on or before 9.5.2024 and file a bail petition. Since the petitioner was earlier granted bail, as such on appearance, the concerned court shall release the petitioner on interim bail on the same day, subject to furnishing bail bonds to its satisfaction and imposing reasonable conditions as it may deem appropriate in the background of the accused's conduct** till the disposal of his petition for regular bail. The petitioner is to execute a bond for attendance in the concerned court.

6. The petitioner shall not be arrested till 9.5.2024, 4 PM and it is clarified that this order shall stand eclipsed automatically after 9.5.2024 without any further reference to this court.

7. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

8. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent and subject to the conditions mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

May 03, 2024

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Whether speaking/reasoned : Yes

Whether reportable : No