

116

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-22810-2024 (O&M)  
Date of decision: 07.05.2024

Balwinder Singh and others

... Petitioners

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amandeep Singh, Advocate  
for the petitioners.

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HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of the impugned order dated 25.04.2024 passed by learned Sessions Judge, Faridkot in Criminal Appeal bearing No.CRA-40-2020 dated 13.02.2020, arising out of FIR No.159 dated 18.10.2013 under Sections 498-A, 406, 342, 323 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sadar Kotkapura, District Faridkot, vide which non-bailable warrants have been issued against the petitioners as well as all the consequential proceedings emanating therefrom.
2. Learned counsel for the petitioners, *inter alia*, contends that in the FIR (*supra*), the petitioners were convicted by learned trial Court vide judgment dated 18.01.2020 and they preferred an appeal before the Court of

Sessions, in which their sentence was suspended. They were regularly appearing before learned appellate Court. On 25.04.2024, petitioner No.1, who is father of petitioner No.2, was not feeling well due to heart problem and petitioner No.2 was taking care of her father-petitioner No.1. On the said date, petitioner No.3 appeared before learned appellate Court and due to aforementioned reason, he moved an application seeking exemption from personal appearance of petitioners No.1 & 2 and no notice to secure their presence was issued and on 25.04.2024, learned appellate Court cancelled bail/surety bonds of petitioners No.1 & 2 and forfeited to the State and non-bailable warrants along with notice to their surety were issued.

3. Learned counsel for the petitioners submits that non-appearance of petitioners No.1 & 2 was not deliberate and intentional and thus, aggrieved by the said order, they have approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of petitioners No.1 & 2 due to the aforementioned reason.

4. It is also submitted that the petitioners undertake to appear before learned appellate Court on each and every date.

5. Notice of motion.

6. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice on behalf of the respondent and submits that the impugned order has been passed on the sole ground of the absence of petitioners No.1 & 2, however, it is not disputed by him that their sentence was already suspended by learned appellate Court and they had been

regularly appearing before it.

7. 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.

8. A perusal of the impugned order dated 25.04.2024 reflects that learned appellate Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioners No.1 & 2. 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 learned appellate Court is justified and, therefore, the same is accepted.

9. 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.

10. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the Court. The petitioners in the present case have themselves come forward and have undertaken to appear before learned appellate Court on each and every date.

11. In view of the aforesaid facts and circumstances, present petition is allowed and the impugned order dated 25.04.2024 is hereby set aside.

12. The petitioners are directed to appear before learned appellate Court within a period of four weeks from today and on their doing so, they shall be admitted to bail on their furnishing fresh bail/surety bonds to the satisfaction of learned appellate Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Faridkot, for wasting precious time of the Court.

[ HARPREET SINGH BRAR ]  
JUDGE

07.05.2024  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No