

CRM-M-25459-2023

Raja alias Balraj Singh and anr.

.....Petitioner(s)

Rashpal Singh

.....Respondent

Present:- Mr. K.P. Singh, Advocate
for the petitioners.

1. Present petition has been filed under Section 482 Cr.P.C. seeking modification of order dated 26.04.2023 (Annexure P-2) passed by the Court of Sh. Sumit Ghai, ASJ, Amritsar in a BA No.2175 of 2023 in a case titled as Rashpal Singh Vs. Acchar Singh and anr in a complaint case bearing COMI-47-2018 instituted on 23.05.2018 under Sections 307-447-427-323-506-341-379-148-149 of IPC, 1860 and Sections 25-27-54-59 of the Arms Act at Police Station Lopoke, Amritsar Rural (P-1). Prayer qua the petitioner was that he was directed to surrender before the trial Court within a period of 7 days.

2. While issuing notice of motion, following order was passed:-

“The petitioners are accused in a complaint case COMI-47-2018 titled as Rashpal Singh Vs. Acchar Singh and another. Vide order dated 29.07.2022, they did not appear before the Court without prior intimation resulting in cancellation of their bail and surety bonds and forfeiture to the State. Orders were issued for summoning them through non-bailable warrants for 16.09.2022.

Vide order dated 26.04.2023 (impugned order), in a petition under Section 438 Cr.P.C. direction was issued that the petitioners shall surrender within seven days and file a fresh application for

grant of regular bail which shall be considered expeditiously and disposed of preferably within three days. It was also directed that interim bail may be granted, if, the trial Court finds it fit to do so.

Vide order dated 17.11.2022, in the case of co-accused Kabal Singh, Dilbag Singh and Sohan Singh, the trial Court had disposed of an application filed under Section 438 Cr.P.C. after recording that the bail orders were intact and the applicants may appear before the trial Court and furnish fresh bail and surety bonds.

Thus, this petition has been field for modification of order dated 26.04.2023 on the ground that two different yardsticks have been adopted in respect of identically situated accused persons.

Notice of motion for 10.08.2023.

Meanwhile, the petitioners may surrender before the trial Court on or before 02.06.2023 and seek regular bail. In case, such an application is filed, the same shall be allowed.

By virtue of Section 446-A Cr.P.C. forfeiture of a bail bond amounts to cancellation thereof. Thus, although the bail order has not been varied or cancelled, effectively, it would amount to cancellation thereof as the accused has to be produced in Court after arresting him. Thus, the distinction sought to be drawn by the Additional Sessions Judge, Amritsar in order dated 17.11.2022 regarding the bail order being intact despite cancellation of the bail bond is not understandable.

A copy of this order be accordingly sent to Sh. Sumit Ghai, Additional Sessions Judge, Amritsar with a copy of this petition and his explanation be called for before the next date of hearing.”

3. Counsel for the petitioners has produced order dated 08.06.2023 to demonstrate that the petitioners appeared before the trial Court in compliance of the order dated 22.05.2023 passed by this Court and stands admitted to bail.

4. In view thereof, no further order is warranted.

5. Present petition stands disposed off.

19-04-2024

spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No