

CRM-M-33610-2024
Date of decision: 18.07.2024

Karamjeet Kaur alias Karmo DeviPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Pankaj Bali, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of order dated 03.07.2024 (Annexure P-3) passed by the learned Additional Sessions Judge/Fast Track Special Court (POCSO) Karnal, whereby, the bail order has been cancelled and bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State followed by issuance of non-bailable warrants in case bearing FIR No.155 dated 08.06.2020 (Annexure P-1) under Sections 323/498-A/506 of IPC, Sections 6/8 of POCSO Act, Sections 3(i)(iv)(ii)/3(2)(va) of SC/ST Act and Sections 9/10/11 of Prohibition of Child Marriage Act registered at Police Station Ram Nagar, Karnal and all consequential proceedings arising therefrom.

2. Learned counsel appearing for the petitioner *inter alia* contends that on 03.07.2024, the case was fixed for statement under Section 313 Cr.PC. But on the said date of hearing, the petitioner was suffering from fever and she had duly informed her counsel. Thereafter, her counsel has filed an application

for exemption from personal appearance of the accused/petitioner on the ground that she is suffering from fever but the same was not accepted on the ground that the same was not supported with affidavit of the petitioner and on that day due to her non-appearance, her bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants along with notice to her surety were issued. Aggrieved by the said impugned order dated 03.07.2024 (Annexure P-3), the petitioner has approached this Court by way of instant petition.

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, she has 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 the petitioner due to her ill health.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

5. Notice of motion.

6. Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice for the respondent and submits that the impugned order has been passed on the sole ground of the absence of the petitioner.

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 order dated 03.07.2024 (Annexure P-3) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. 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 wilful absence. The explanation offered for non appearance before the trial 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 trial Court. The petitioner in the present case has herself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 03.07.2024 (Annexure P-3), vide which the bail bonds and bail order of the petitioner was cancelled and non-bailable warrants were issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of two weeks from today and on her doing so, she shall be admitted to bail on her furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.5,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

13. The receipt of payment of costs imposed must be presented before

the learned trial Court. The learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

(HARPREET SINGH BRAR)
JUDGE

18.07.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No