

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
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CRM-M No.35390 of 2024
Date of decision : 31.7.2024

Harwinder Singh @ Bhura	Petitioner
Versus	
State of Punjab	Respondent

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Bhatia, Advocate, for the petitioner
Mr. Rajiv Verma, DAG, Punjab

SANDEEP MOUDGIL, J (ORAL)

The petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Replaced Section 482 Cr.P.C.) for quashing the order dated 6.2.2024 (Annexure P-4), passed by the trial Court in FIR No.11 dated 1.7.2019, under Section 3 of the Railway Property (Unlawful Possession) Act, 1966, registered at Police Station RPF, District Amritsar, whereby the bail granted to the petitioner was cancelled, his bail/surety bonds were forfeited and arrest warrants were ordered to be issued against him.

2. Learned counsel for the petitioner contends that after presentation of challan and framing of charges, the case was adjourned from 2.11.2023 to 6.2.2024 for prosecution evidence. The petitioner being a driver had gone to Meghalaya and could not reached back on 6.2.2024, resulting in passing of the impugned order. He further submits that after



passing of the impugned order, he applied for concession of anticipatory bail but the same was rejected by the Additional Sessions Judge vide order dated 16.5.2024. Now the case is fixed for 23.7.2024 for execution of non-bailable warrants against the petitioner. He would further submit that non-appearance of the petitioner on the said date was neither willful nor intentional but due to abovesaid circumstances.

3. Learned counsel for the petitioner before this Court undertakes that he is ready and willing to surrender before the trial Court to associate in the trial proceedings within a period of 7 days from today itself.

4. Notice of motion.

5. Mr. Rajiv Verma, DAG, Punjab, accepts notice on behalf of the respondent/State and on instructions, does not controvert the aforesaid facts.

6. In the light of above, having regard to the reasons mentioned in the petition as well as argued before this court, this Court is duly convinced that the absence of the petitioner is neither intentional nor deliberate but due to being a truck driver gone to Meghalaya.

7. Now the petitioner has given an undertaking to join the proceedings after surrendering to the law which would only facilitate the ponderance of Court proceedings and help in expediting the proceedings for final adjudication. This Court is of the considered view that in the light of circumstances discussed as above, the petitioner deserves to be given one opportunity to surrender and join the proceedings before the trial Court as undertaken by him, i.e., within a period of 7 days from today.

8. Hence, the order dated 6.2.2024 is quashed subject to surrender

of the petitioner within 7 days from today, failing which directions given by this Court would stand cancelled automatically.

9. The trial Court is requested to consider the bail application, if any so filed, as per law expeditiously preferably on the same date itself.

10. The petition in the aforesaid terms is allowed.

(SANDEEP MOUDGIL)
JUDGE

31.7.2024
Ashwani

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