



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-45145-2024
Date of decision: 04.11.2024

SAHIL

....PETITIONER

Versus

STATE OF HARYANA

....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present: - Mr. Abhimanyu Antil, Advocate for
Mr. Mukesh Yadav, Advocate
for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SANJIV BERRY, J. (ORAL)

1. By way of present petition filed under Section 482 Cr.P.C., petitioner seeks quashing of impugned order dated 02.09.2023 (Annexure P-4) passed by Ld. ACJM, Narnaul in case FIR (Annexure P-1) as under:

FIR No.	Dated	Sections	Police Station
102	17.03.2023	21(1) of Mines and Mineral (Regulation of Development) Act 1957 and Section 379 of IPC	Sadar Narnaul, District Mahendergarh.

2. It is, *inter alia*, contended by learned counsel for the petitioner that in compliance to the order passed by this Court on 12.09.2024, the petitioner has appeared before the learned trial Court and furnished the requisite bail bonds. In support of his contention, he has placed on record



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copy of order dated 14.09.2024 passed by learned Duty/Judicial Magistrate First Class, Narnaul.

3. Learned State counsel has not disputed the factual matrix.
4. During the course of proceedings on 12.09.2024, the following order was passed:-

“1. Learned counsel for the petitioner inter alia contends that after being nominated in case FIR (Annexure P-1), the petitioner was granted the concession of bail vide order dated 18.04.2023. Thereafter, challan was presented in Court on 14.06.2023 in his absence, as the petitioner did not receive any notice nor his counsel informed him about the date as the counsel for the petitioner had noted a wrong date of hearing and the case was adjourned to 02.09.2023 for the presence of the petitioner. However, on 02.09.2023, the petitioner could not appear as he was having no information about the date fixed, leading to cancellation of his bail and issuance of non-bailable warrants of arrest vide impugned order dated 02.09.2023 (Annexure P-4). He has referred to order dated 02.04.2024 (Annexure P-3) to submit that the matter is now pending for 24.09.2024 for the presence of the petitioner through warrant of arrest. He submits that the absence of the petitioner was not intentional and he is ready to appear before the learned trial Court and face the trial.

2. Notice of motion.

3. On the asking of the Court, Ms. Gaganpreet Kaur, DAG Haryana accepts notice on behalf of respondent-State and has not disputed the factual matrix.

4. In the meanwhile, petitioner is directed to appear before the Trial Court/Duty Magistrate concerned on or before 19.09.2024. In that event, he is ordered to be admitted on interim bail on his furnishing bail bonds /surety bonds to



the satisfaction of the concerned Court/Duty Magistrate. The petitioner will also furnish a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency he will seek prior exemption from the Court in accordance with law.

5. *Adjourned to 26.09.2024.”*

5. After hearing the submissions and perusing the record, it transpires that the petitioner after being nominated in the instant FIR (Annexure P-1) was granted concession of bail vide order dated 18.04.2023. Consequent upon filing of the challan in the Court on 14.06.2023 in his absence, no notice was ever received by the petitioner but the case was adjourned to 02.09.2023. Since the petitioner was not having any notice of such date, he could not appear leading to cancellation of his bail and issuance non-bailable warrants of arrest vide the impugned order (Annexure P-4) dated 02.09.2023, which has been challenged by the petitioner in the instant petition.

6. Since the petitioner has already put in appearance before the Learned Duty Magistrate on 14.09.2024 and furnished his requisite bail/surety bonds consequent to the order dated 12.09.2024, passed by this Court, the present petition is allowed. The impugned order dated 02.09.2023 (Annexure P-4) passed by the Court of Learned ACJM, is set aside and the interim bail granted vide order dated 12.09.2024 is hereby confirmed.

7. The petition stands allowed.



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8. It is made clear that anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)
JUDGE

04.11.2024

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No