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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47544-2024 (O&M)
Date of decision: 26.09.2024

Salamuddin @ Cheema

... Petitioner

Vs.

State of Haryana

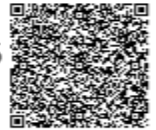
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sanyam Khetarpal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of the order dated 03.09.2024 (Annexure P-7) passed by learned Additional Sessions Judge, Fast Track Court, Faridabad, in a case arising out of FIR No.296 dated 06.04.2023 under Sections 457, 380, 34 of the Indian Penal Code, 1860 (for short 'IPC') (Section 8 of the Protection of Children from Sexual Offences Act, 2012 deleted later on), registered at Police Station Sector-58, Faridabad, District Faridabad, vide which bail of the petitioner has been cancelled and



bail/surety bonds have been forfeited to the State and non-bailable warrants have issued.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was granted bail by this Court in the FIR (*supra*) vide order dated 19.10.2023 passed in CRM-M-52170-2023 and he was regularly appearing before learned trial Court. On 03.09.2024, an application seeking exemption from personal appearance of the petitioner was filed on the ground that he had to attend the cremation of his relative and the same was dismissed on the same date i.e. 03.09.2024 and due to his non-appearance, vide order dated 03.09.2024, learned trial Court cancelled his bail and bonds were forfeited to the State and non-bailable warrants were issued against the petitioner.

3. Learned counsel for the petitioner further submits that non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he 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 aforementioned facts.

4. Learned counsel for the petitioner undertakes that the petitioner will appear before learned trial Court on each and every date.

5. Notice of motion.

6. Ms. Geeta Sharma, DAG, Haryana, who is present in Court,

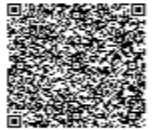


accepts notice for the respondent-State and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by her that the petitioner was already on bail and had been appearing before the trial Court.

7. Having heard learned counsel for the parties and after perusing 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 03.09.2024 (Annexure P-7) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for solitary absence of the 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 willful absence. The explanation offered for non-appearance before learned 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 himself 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, present petition is allowed. The impugned order dated 03.09.2024 (Annexure P-7) is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of four weeks from today and on his doing so, he shall be admitted to bail on his furnishing same bail/surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- 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 upon the petitioner must be presented before learned trial Court. Learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

[HARPREET SINGH BRAR]
JUDGE

26.09.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No