

2024:PHHC:002896

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M-54550-2023
Date of Decision : January 10, 2024

KAPIL BHATIA

.....Petitioner

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr.Vaibhav Sehgal, Advocate for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

Mr. Tarun, Advocate for respondent No.2.

KULDEEP TIWARI. J.(Oral)

1. On the last date of hearing, i.e.30.10.2023, the following order was passed:-

“In the instant petition, the petitioner challenge order dated 13.03.2023 (Annexure P-3) whereby, the learned trial Court initiate PO proceedings against the present petitioner.

Learned counsel for the petitioner draw attention of this Court towards the order dated 24.11.2021 passed by this Court in CRM-M-37578 of 2021, Kapil Bhatia versus State of Punjab (Annexure P-2) whereby on depositing Rs.15,00,000/- in the name of the complainant, the petitioner was granted the relief of interim anticipatory bail and he was directed to join investigation and faced trial in the aforesaid FIR. He submits that the final report was filed on 25.03.2022 before the learned trial Court by the Station House Officer in the absence of the petitioner and without

serving any notice to him therefore, the learned trial Court vide order dated 25.03.2022 issued fresh notice to the petitioner for appearance for 16.04.2022 however the notice issued to the petitioner received back with the report “unserved” and fresh notice was issued to the petitioner for appearance for 20.08.2022. On that day, the position remained the same and the petitioner was again “unserved” and the trial Court issued fresh notice for 27.09.2022. On 27.09.2022 the situation remained the same as notice to the petitioner was received back with the report “unserved”. On next date of hearing i.e. 13.12.2022 the fresh notice served to the petitioner not received back either served or otherwise. Therefore, the learned trial Court without awaiting the report of notice already issued to the petitioner straightaway issued bailable warrants against the petitioner for appearance for 17.01.2023.

A perusal of zimni order dated 17.01.2023 reveals that the bailable warrants served to the petitioner was not received back and the learned trial Court without awaiting of the report of bailable warrants straightaway issued non-bailable warrants against the petitioner for 13.03.2023. The learned trial Court without adhering to the procedures straightaway recorded his satisfaction that the petitioner is evading his arrest and therefore he chooses to initiate proclamation proceeding against him.

Notice of motion to the respondents.

On asking of this Court, Mr. Sandeep, learned Addl. A.G., Punjab waive service on behalf of respondent No.1.

Notice to respondent No.2 through ordinary process and *dasti* as well, returnable on or before the

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next date of hearing on furnishing requisite process fee.

Adjourned to 10.01.2024.

In the meanwhile, the operation of the impugned order shall remain stayed.

However, the petitioner is also directed to put in appearance before the learned trial Court on 11.12.2023.”

2. In pursuance of the aforesaid order, the petitioner has caused appearance before the learned trial Court concerned and now he is regularly appearing before the learned trial Court concerned

3. Therefore, the interim order, as passed by this Court on 30.10.2023 is, hereby, made absolute with the condition that the petitioner shall continue to appear before the learned trial Court concerned.

(KULDEEP TIWARI)
JUDGE

January 10, 2024
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No