

110

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54962-2024 (O&M)
Date of decision: 07.11.2024

Rubal Kumar

... Petitioner

Vs.

State of Punjab

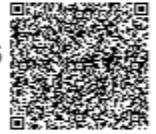
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. V.B. Godara, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

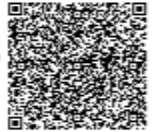
1. This is second petition filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for quashing of order dated 30.07.2024 (Annexure P-4) passed by learned Additional Sessions Judge, Sri Muktsar Sahib, in a case bearing FIR No.201 dated 28.11.2018 under Sections 376 & 506 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib, vide which bail of the petitioner was cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants were issued.



2. The first petition i.e. CRM-M-53739-2024 was dismissed as withdrawn on 28.10.2024 with liberty to file a fresh petition with better particulars.

3. Brief facts of the case are that FIR (*supra*) was registered on the statement made by the complainant-victim, on the allegations that she was employed as Staff Nurse in Guru Nanak Hospital and about one year ago, she came in contact with the petitioner and thereafter, they developed intimate relations and used to talk on phone and on the pretext of marriage, the petitioner made physical relations with her. The petitioner physically exploited the complainant-victim for about six months and when she asked to marry her, he used caste related remarks that she belongs to Scheduled Caste, whereas he belongs to Bishnoi Caste and he could not perform marriage with her, as he was only using her. The petitioner also threatened to kill her.

4. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was on bail in the FIR (*supra*) and was regularly appearing before learned trial Court, but due to some mis-happening in his family and miscommunication with his counsel, he could not appear before learned trial Court on 30.07.2024 and due to his non-appearance, vide impugned order dated 30.07.2024, learned trial Court cancelled his bail and surety bonds were forfeited to the State and non-bailable warrants along notice to the



surety were issued.

5. 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.

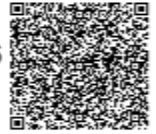
6. Learned counsel for the petitioner undertakes to appear before learned trial Court on each and every date.

7. Notice of motion.

8. Mr. Sandeep Kumar, DAG, Punjab, 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 him that the petitioner was already on bail and had been appearing before learned trial Court.

9. 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.

10. A perusal of the order dated 30.07.2024 (Annexure P-4) reflects that learned trial Court proceeded to pass the extreme order of cancellation of bail for solitary absence of the petitioner. Many a times, the accused can



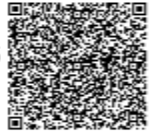
be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non-appearance before learned trial Court is justified and, therefore, the same is accepted.

11. 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.

12. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before learned trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before learned trial Court on each and every date.

13. In view of the aforesaid facts and circumstances, present petition is allowed. The impugned order dated 30.07.2024 (Annexure P-4) is hereby set aside.

14. The petitioner is directed to appear before learned 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 learned 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.

15. 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

07.11.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No