



117

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-56159-2024 (O&M)
Date of decision: 12.11.2024

Tejinder Singh @ Jatinder Singh @ Teji

... Petitioner

Vs.

State of Punjab

... Respondent

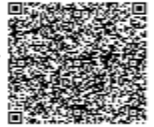
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhimanyu Antil, Advocate for
Mr. Deepak Goyal, 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 short 'BNSS') [*erstwhile Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.')*] for quashing of order dated 22.04.2024 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Sunam, District Sangrur, in case bearing FIR No.147 dated 10.12.2022 under Sections 363 & 366-A of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Dirba, District

2024:PHHC:147024

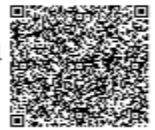


Sangrur, vide which bail of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State and non-bailable warrants were issued.

2. Brief facts of the case are that FIR (*supra*) was registered on the basis of statement made by father of the prosecutrix, on the allegations that he has four daughters and a son. On 07.12.2022 in the evening, after taking meal, all of his family members slept and when he woke up in the morning at about 05.30 a.m., he did not find his youngest daughter 'R'. Thereafter, the family members searched 'R', but no clue was found. After searching for about 2-3 days, it came to know that the petitioner enticed away his daughter 'R' on the pretext of marriage.

3. Learned counsel for the petitioner, *inter alia*, contends that after registration of FIR (*supra*), the petitioner was granted the concession of anticipatory bail and he was regularly appearing before learned trial Court. The petitioner appeared before learned trial Court till 14.07.2023, however, he could not appear on 28.09.2023 as notice could not be served upon him for that date, as presently, he is residing with his family in Mohali and is working as daily wager in and nearby Chandigarh, therefore, due to his non-appearance, vide order dated 22.04.2024, learned trial Court cancelled his bail and his bail/surety bonds were forfeited to the State and non-bailable

2024:PHHC:147024



warrants were issued against him.

4. 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.

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

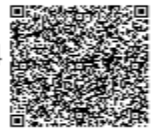
6. Notice of motion.

7. Mr. Subhash Godara, Addl. A.G., 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.

8. 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.

9. A perusal of the order dated 22.04.2024 (Annexure P-3) reflects that the trial Court proceeded to pass the extreme order of cancellation of

2024:PHHC:147024



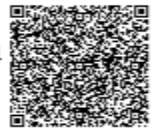
bail. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non-appearance before learned trial Court is justified and,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

10. 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.

11. 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.

12. In view of the aforesaid facts and circumstances, present petition is allowed and the impugned order dated 22.04.2024 (Annexure P-3) is hereby set aside.

2024:PHHC:147024



13. 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 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.

14. 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

12.11.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No