



CRM-M-63370-2024(O&M)

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.143

CRM-M-63370-2024(O&M)
Date of decision : 20.12.2024

Harish Garg

..... Petitioner

VERSUS

Gulshan

..... Respondent

CORAM: HON’BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Surinder Garg, Advocate for the petitioner.

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing the order dated 26.05.2022 (Annexure P-6) vide which bail of the petitioner has been cancelled and bail bonds/surety bonds of the petitioner have been forfeited to the State and warrant of arrest has been issued against him in complaint NACT No.1795 dated 01.12.2015 titled as “Gulshan Vs. Harish Garg”.

2. Learned counsel for the petitioner submits that the petitioner was granted concession of bail in afore-stated FIR and he was regularly appearing before the trial Court. He further submits that on 26.05.2022 the petitioner was not well and the application for exemption from personal appearance was dismissed by the learned Trial Court observing that the application was not supported by any affidavit or medical record. Resultantly, the learned Trial Court cancelled the bail and the bail bonds/surety bonds were also forfeited to the State and warrant of arrest was issued against the petitioner. He submits that the petitioner is ready to

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appear before the trial Court and abide by all the terms and conditions as may be imposed upon him by the trial Court.

3. Heard.

4. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the trial Court, then it would not be unjustified to protect him from being arrested.

5. On hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner was granted bail, however due to medical/health reasons, he could not appear before the trial Court on 26.05.2022 and on account of the same, his bail bonds/surety bonds were cancelled and forfeited to the State. The petitioner is ready to appear before the trial Court and face the trial.

6. This Court finds that no useful purpose will be served by sending the petitioner in custody when he was continuously appearing before the trial Court but could not appear on one date due to health issues.

7. In view of the above, the present petition is allowed. Order dated 26.05.2022 (Annexure P-6) is hereby set aside subject to payment of cost of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh within two weeks from today. The petitioner after depositing the cost as stated above would appear before the trial Court within 15 days and file appropriate application along with receipt

of payment of cost. The trial Court would release the petitioner on the same



bail bonds and surety bonds. No coercive action would be taken against the petitioner till then. In case, the petitioner fails to appear before the trial Court within 15 days or fails to deposit the cost as stated above, this order would be of no avail to the petitioner.

8. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if he feels dis-satisfied with this order, he can move an application to recall the same.

(KIRTI SINGH)
JUDGE

20.12.2024
Kapil

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No