

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

CRM-M-10685-2019

Date of decision-08.03.2019

Mohd.Altaf Khwaja

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. L.S.Lakhanpal, Advocate for the petitioner.

MANOJ BAJAJ, J.

This petition has been filed under Section 438 Cr.P.C for grant of pre-arrest bail in case FIR No.51 dated 25.08.2016 registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 Act at Police Station Bilga, District Jalandhar (Rural) as vide order dated 01.03.2019 (Annexure P-2), trial Court proceeded to cancel the bail of the petitioner, who failed to appear on date fixed and forfeited the bail bonds and surety bonds. Also the proceedings under Section 446 Cr.P.C were initiated against the surety.

Learned counsel for the petitioner contends that on 01.03.2019, there were unusual circumstances prevailing in northern region of the country because of terrorist attack in Pulwama and the petitioner being a resident of Jammu and Kashmir was unable to travel to attend the date of hearing. According to the petitioner, he was prevented by sufficient reasons. The petitioner had been regularly appearing before the Court on each and every date of hearing. It is further pointed out that next date of hearing is 16.03.2019.

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On the oral request of the petitioner, petition under Section 438 Cr.P.C is treated as petition under Section 482 Cr.P.C.

Notice of motion.

At the asking of the Court, Mr. V.G.Jauhar, Senior DAG, Punjab accepts notice on behalf of the respondent-State. A complete copy of the paper book has been furnished to the learned State counsel, in the Court.

Many a times a person/accused can be prevented by sufficient reason 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 by learned counsel for the petitioner appears to be justified and the same is accepted.

Consequently, in view of the above, petition is allowed and the impugned order dated 01.03.2019 (Annexure P-2) is set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds.

Disposed off.

(MANOJ BAJAJ)
JUDGE

08.03.2019
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No