

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

**CRM-M No. 16763 of 2019
Date of Decision:-11.04.2019**

Mandeep Kumar @ Manga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Jitender Singh Dadwal, Advocate
for the petitioner.

MANOJ BAJAJ J.(Oral)

This petition has been filed under Section 482 Cr.P.C for challenging the order dated 19.3.2019 whereby due to non-appearance, bail order of accused stands cancelled and he was summoned through non-bailable warrants of arrest by the trial Court in case FIR No.115 dated 03.7.2016, under Section 22 of NDPS Act, 1985 registered at Police Station Phagwara City, District Kapurthala.

Learned counsel for the petitioner contends that on 22.1.2019, petitioner moved an application for exemption from his personal appearance through his counsel before the trial Court and the matter was adjourned to 19.3.2019 but the counsel before the trial Court noted the wrong date i.e. 29.3.2019 instead of 19.3.2019. When the petitioner

appeared before the trial Court on 29.3.2019, he came to know that his bail stands cancelled and non-bailable warrants have been issued against him on 19.3.2019 due to his non-appearance. Learned counsel for the petitioner submits that the said absence of the petitioner on 19.3.2019 was neither intentional nor willful as it was due to wrong date noted by his counsel.

Notice of motion.

On asking of the Court, Mr. Harsimar Singh Sitta, AAG, Punjab accepts notice on behalf of respondent-State. Learned counsel for the petitioner is directed to hand over requisite number of copies of paper book to learned State counsel during the course of the day.

I have heard learned counsel for the parties and peruse the records.

It is evident from Annexure P-2, that the case was taken up by trial Court on various occasions and the accused was regularly appearing before the Court, except for one absence i.e. 19.3.2019. 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.

In the case in hand, due to non-appearance of the petitioner/accused before the Court on one date i.e. 19.3.2019, the trial Court has proceeded to pass the extreme order on the said date i.e. 19.3.2019. The explanation offered appears to be justified and the same is accepted.

Consequently, in view of the above, petition is allowed and the

impugned order dated 19.3.2019, passed by the trial Court, is set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds, already furnished by him before the trial Court.

Disposed off.

April 11, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No