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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24802-2019
Date of decision-29.05.2019

Mohamad Khalid @ Mohamad Khalik

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Harmanpreet Singh, Advocate for the petitioner.

MANOJ BAJAJ, J.

This petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in case FIR No.210 dated 18.12.2017 registered under Sections 379-B of Indian Penal Code at Police Station Division No.8, District Ludhiana.

Petitioner being an accused in FIR No.210 dated 18.12.2017 registered under Section 379-B and 411 of IPC was extended concession of regular bail vide order dated 25.09.2018. Thereafter, the petitioner kept on appearing before the trial Court regularly, except on 24.01.2019 when the petitioner absented himself and the Court proceeded to cancel his bail bonds and surety bonds and forfeited the same. The trial Court issued non-bailable warrants for arrest of the petitioner.

Learned counsel for the petitioner contends that the petitioner was arrested in case FIR No.348 dated 30.12.2018 under Sections 379-B and 34 IPC and, therefore, could not put in his appearance before the

Court on the said date i.e.24.01.2019. It is contended that an application was also moved by the petitioner for restoration of the bail bonds and surety bonds by the accused, however, the same was dismissed vide order dated 11.04.2019 (Annexure P-4). Faced with the situation, the petitioner had approached the Court of Sessions for grant of pre-arrest bail and the same was also declined despite noticing the reason for his absence on 24.01.2019.

Since the petitioner was already admitted on regular bail, therefore, the prayer for anticipatory bail may not be maintainable. At this stage, learned counsel for the petitioner makes a prayer to treat the petition under Section 482 Cr.P.C. The prayer is accepted.

Notice of motion.

At the asking of the Court, Mr. Harsimar Singh Sitta, AAG, 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.

It is evident that the absence of the petitioner on 24.01.2019 was beyond his control as he was arrested in some other case. Even his prayer for restoration of bail bonds and surety bonds was not accepted by the Court below.

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 the trial Court is justified and therefore, the same is accepted.

Considering the above, the impugned order dated 24.01.2019 is

set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds.

Disposed off.

(MANOJ BAJAJ)
JUDGE

29.05.2019

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