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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42286-2019

Date of decision-01.10.2019

Mohd.Shahran

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ramnish Puri, Advocate for the petitioner.

MANOJ BAJAJ, J.

Mohd.Shahran-convict has challenged the orders dated 29.08.2019 and 17.09.2019 (Annexures P-5 and P-6), whereby the learned Sessions Judge, Yamuna Nagar proceeded to cancel his suspension of sentence and forfeited the bail bonds in criminal appeal filed by petitioner against conviction in FIR No.76 dated 13.09.2012 registered under Sections 279 and 304-A of Indian Penal Code at Police Station Jagadhari Sadar and appellate Court initiated the proceedings against the sureties as well under Section 446 Cr.P.C.

Learned counsel for the petitioner contends that the Appellate Court proceeded to pass extremely harsh order on 29.08.2019 by cancelling the bail and forfeiting the bail bonds and surety bonds of the appellant. It is contended that on 29.08.2019, the appellant could not appear before the Appellate Court because of his ailing health. Learned counsel invited the

attention of the Court to Annexure P-4 to contend that the he was suffering from viral fever and therefore, could not put in his appearance. He submits that the petitioner is willing to join the proceedings which are now fixed for 09.10.2019.

Notice of motion.

At the asking of the Court, Mr. Sukhdeep Parmar, DAG, Haryana 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.

A perusal of the case file reveals that the appeal was preferred against the judgment of conviction in time and his sentence was suspended vide order dated 12.01.2016. It is clear from the reading of the impugned order that the Appellate Court proceeded to cancel the bail only on the ground that appellant has absented and on the said date, his counsel was also absent. Apparently it is not a case, where it can be said that appellant was frequently absenting from the Court proceedings.

Many a times, the accused or counsel can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot be necessarily construed as a deliberate and willful absence. The Appellate Court has not recorded any satisfaction that the absence of the convict was deliberate and wilful. The explanation offered for non appearance before the trial Court appears to be justified and therefore, the same is accepted.

Considering the above, the present petition is allowed and the

impugned orders dated 29.08.2019 (Annexure P-5) and 17.09.2019 (Annexure P-6) are set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds.

(MANOJ BAJAJ)
JUDGE

01.10.2019
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No