

105 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41650-2019
Date of decision-27.09.2019

Parminder Singh @ Laddi

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Jaideep Verma, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Parminder Singh @ Laddi has filed this petition under Section 438 Cr.P.C for grant of anticipatory bail in case FIR No.142 dated 06.06.2018 registered under Sections 394 and 392 of Indian Penal Code, 1860 and Section 25 of Arms Act at Police Station Dehlon, District Ludhiana.

Learned counsel for the petitioner contends that petitioner was granted regular bail in the above said FIR vide order dated 21.01.2019 and thereafter, he kept on appearing regularly before the Court except on 11.09.2019. Since the petitioner is driver by profession and was in Ferozepur on 11.09.2019 and his car breakdown on the way, therefore, he telephonically informed his counsel and requested to move an application for exemption from personal appearance. The requisite application was moved seeking exemption from personal appearance, however, the trial Court refused to grant exemption and proceeded to cancel his bail and forfeited the bail bonds.

When learned counsel was confronted with the maintainability

of the petition under Section 438 Cr.P.C, he 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. Balbir Singh Sewak, Addl.A.G, 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.

A perusal of the order dated 11.09.2019 reveals that the trial Court disbelieved the sufficient reason given by accused for his absence, as no affidavit was filed. This approach of the trial Court is too rigid, particularly when the counsel of the accused was present and Court could have kept the case for a short date for appearance of accused, if it had any doubt.

Many a times, the accused or his 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 explanation offered for non appearance before the trial Court appears to be justified and therefore, the same is accepted.

Considering the above, the impugned order dated 11.09.2019 (Annexure P-3) and subsequent issuance of warrants (if any) on 11.09.2019 are set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds.

Disposed off.

27.09.2019

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No