

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

**CRM-M-42597-2019
Date of decision-04.10.2019**

Avtar Singh Virk and others ...Petitioners

Vs.

State of Punjab ...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. A.S.Brar, Advocate for the petitioners.

MANOJ BAJAJ, J.

Petitioners have filed this petition under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in case FIR No.226 dated 28.12.2018 registered under Sections 399 and 402 of Indian Penal Code, 1860 and Section 25 of Arms Act at Police Station Baghapurana, District Moga.

Learned counsel for the petitioners contends that on 16.09.2019, the petitioners absented and the Appellate Court proceeded to cancel their bail and forfeited the bail bonds. It is submitted that the petitioners had noted the wrong date of hearing as 16.10.2019 instead of 16.09.2019 and it caused their absence before trial Court on the said date.

It is further pointed out by learned counsel for the petitioners that name of petitioner No.3-Harmeet Singh was wrongly mentioned as Tejinder Singh in the impugned order.

When learned counsel was confronted with the maintainability

of the petition, 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. Ramdeep Partap Singh, 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.

A perusal of the order dated 16.09.2019 reflects that the appellate Court proceeded to pass the extreme order for this solitary absence of petitioners, who were on bail. Even counsel of the petitioners was not present on the said date and it may be because of noting a wrong date as explained by the petitioners.

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 appellate Court appears to be justified and therefore, the same is accepted.

Considering the above, the impugned order dated 16.09.2019 (Annexure P-2) and subsequent issuance of warrants (if any) on 16.09.2019 are set aside and the petitioners are allowed to remain on the same bail bonds and surety bonds.

Disposed off.

(MANOJ BAJAJ)
JUDGE

04.10.2019

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