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

**CRM-M-44290-2019
Date of decision-18.10.2019**

Gurchetan Singh Brar @ Bittu Brar

....Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

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

MANOJ BAJAJ, J.

Petitioner-Gurchetan Singh Brar @ Bittu Brar has filed this petition under Section 438 Code of Criminal Procedure for grant of anticipatory bail as the appellate Court proceeded to cancel the bail of the petitioner (appellant) who absented on 27.08.2019 in criminal appeal No.CRA-231-2019, titled as “Lakhveer Singh Vs. Gurchetan Singh”. At the same time the appellate Court issued non-bailable warrants against the appellant.

Learned counsel for the petitioner contends that on 27.08.2019, the petitioner (appellant) absented as he had noted the wrong date of hearing and it caused his absence before appellate Court on the said date.

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 to State only.

At the asking of the Court, Mr. Kirat Singh Sidhu, 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.

This Court is of the opinion that issuance of notice to the respondent No.2 (complainant) may not be necessary as it may cause unnecessary burden upon him. However, it shall be open for the complainant to seek recall of this order in case the petitioner has misled this Court.

A perusal of the order dated 27.08.2019 reflects that the appellate Court proceeded to pass the extreme order for this solitary absence of appellant, who was on bail. Even counsel of the appellant was not present on the said date and it may be because of noting a wrong date as explained by the petitioner.

Many a times, the accused/convict 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 27.08.2019 (Annexure P-1) cancelling the bail & forfeiting the surety bonds and

subsequent issuance of non-bailable warrants are set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds.

Disposed off.

(MANOJ BAJAJ)
JUDGE

18.10.2019
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No