

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

**CRM-M-50285-2019
Date of decision-27.11.2019**

Narender Harjai and others Vs.Petitioners

State of Haryana ...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Subhash Godara, 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.1485 dated 17.12.2018 registered under Sections 323, 324, 506 and 379-B read with Section 34 of Indian Penal Code, 1860 at Police Station City Jagadhri, District Yamuna Nagar.

Learned counsel for the petitioners contends that petitioners were granted anticipatory bail in the above said FIR vide orders dated 08.01.2019 and 25.01.2019. On 05.11.2019, when the petitioners absented, learned Additional Sessions Judge proceeded to cancel their bail and forfeited the bail bonds. It is submitted that the petitioners had noted the wrong date of hearing as 15.11.2019 instead of 05.11.2019 and it caused their absence before trial Court on the said date. Furthermore, on the said date, counsel for the petitioners had gone to attend the cremation of one of the members of the Bar, therefore, he could not appear before the trial Court. He has referred to the notice dated 05.11.2019 issued by District Bar

Association Jagadhari (Yamuna Nagar) (Annexure P-4).

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. Sanjay Kumar Saini, AAG, 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 order dated 05.11.2019 reflects that the trial Court proceeded to pass the extreme order for this solitary absence of petitioners, who were on bail since 08.01.2019 and 25.01.2019.

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 05.11.2019 (Annexure P-5) and subsequent issuance of warrants (if any) on 05.11.2019 are set aside and the petitioners are allowed to remain on the same bail bonds and surety bonds.

Disposed off.

27.11.2019

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(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No