

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

**CRM-M-52182-2019
Date of decision-07.12.2019**

Jaipal

....Petitioner

Vs.

State of Haryana and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Himanshu Puri, Advocate for
Mr. Jagmohan Ghumman, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Jaipal has filed this petition under Section 438 Code of Criminal Procedure for grant of anticipatory bail in criminal complaint case No.5331-2016 dated 27.04.2016 under Section 138 Negotiable Instruments Act, 1881.

Learned counsel for the petitioner submits that after summoning of the petitioner as an accused, he was granted the concession of regular bail. On 05.09.2019, the exemption from personal appearance was granted, however, on the next date, similar concession was declined. He submits that on 19.09.2019, when the petitioner absented, learned Judicial Magistrate First Class, Gurugram proceeded to cancel his bail and forfeited the bail bonds to the State. It is submitted that the petitioner was in grief as he had

lost a family member and it caused his absence before trial Court on the said date. He submits that the petitioner is willing to participate in the trial proceedings which are now fixed for 09.12.2019.

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, Ms. Tanushree Gupta, 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.

Notice is not being issued to respondent No.2 as it will cause unnecessary burden upon her to contest this case. However, it is made clear that in case any of the facts as pleaded in the petition are found to be incorrect or misleading, it shall be open for respondent No.2 to move an application for recalling of this order.

A perusal of the order dated 19.09.2019 reflects that the trial Court proceeded to pass the extreme order for this absence of petitioner, who was on bail. It is pointed out that on the said date, the petitioner was represented by his counsel, therefore, the order dated 19.09.2019 passed by the trial Court is harsh.

After hearing learned counsel for the petitioner, this Court is of the opinion that at 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 19.09.2019 (Annexure P-3) and subsequent issuance of warrants on 15.10.2019 (Annexure P-4) are set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds furnished at the stage of release on regular bail.

Disposed off.

(MANOJ BAJAJ)
JUDGE

07.12.2019

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