

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-55595-2019

DATE OF DECISION: DECEMBER 27, 2019

JASBIR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. B.R. RANA, ADVOCATE FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

The petitioner has filed this petition under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.0052 dated 24.3.2017, under Section 379-B IPC, Police Station Division No.4, District Ludhiana.

Learned counsel for the petitioner submits that on 31.10.2019 on account of absence of the petitioner, learned trial Court proceeded to cancel his bail and forfeited the bail bonds to the State. It is pointed out that on the said date, due to urgent work he could not attend the Court, though he filed an application for exemption from personal appearance, but the same was declined. He submits that the petitioner was regularly appearing before the trial Court and is ready and willing to participate in the Court proceedings again which is now fixed for 15.1.2020.

When learned counsel for the petitioner 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.

On asking of the Court, Mr. Ramdeep Partap Singh, DAG, Punjab accepts notice on behalf of the State. A complete copy of the paper book has been furnished to the learned State counsel in Court.

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. In the present case, the accused had moved an application seeking exemption from personal appearance, however, the trial Court proceeded to disbelieve the same and passed the extreme order of cancellation of bail. This Court finds that the trial Court fell into error in disbelieving the prayer on behalf of the petitioner, merely on the ground that the said application was not accompanied with an affidavit. It is not a case where the accused was repeatedly seeking exemptions from appearance and therefore, the explanation offered for non-appearance before the trial Court appears to be justified and the same is accepted.

Considering the above, the impugned order dated 31.10.2019 (Annexure P-2) is set aside and the petitioner is allowed to remain on bail on the same bail bonds and surety bonds furnished by him earlier at the stage of release on regular bail.

Disposed off.

December 27, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No