

133 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10007-2020
Date of decision-12.03.2020

Vijay Kumar @ Giani

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. G.S.Jagpal, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Vijay Kumar @ Giani has filed this petition under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in case FIR No.96 dated 25.07.2014 under Sections 364, 392 and 394 of Indian Penal Code, 1860 (charge under Section 201 IPC was also framed) at Police Station Model Town, District Ludhiana City.

Learned counsel for the petitioner contends that the concession of regular bail was extended to the petitioner on 22.07.2019 by this Court and thereafter, the petitioner kept on appearing before the trial Court regularly. On 13.02.2020, the petitioner absented and the trial Court proceeded to cancel his bail and forfeited the bail bonds. It is submitted that the counsel representing the petitioner before the trial Court had noted the wrong date of hearing as 18.02.2020 instead of 13.02.2020. He has placed reliance upon the photocopy of the diary maintained by the counsel representing him, wherein the date is shown as 18.02.2020. He further submits that the petitioner is ready and willing to participate in the trial proceedings which is fixed for 27.03.2020.

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. Monika Jalota, 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 13.02.2020 reflects that the trial Court proceeded to pass the extreme order for this solitary absence of petitioner, who was on regular bail since 22.07.2019. Even counsel of the petitioner was not present on the said date and it may be because of noting a wrong date as explained by the petitioner.

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 13.02.2020 (Annexure P-3) and subsequent issuance of warrants (if any) on 13.02.2020 are set aside and the petitioner is allowed to remain on the same bail bonds and surety bonds.

Disposed off.

12.03.2020

vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes No

Whether Reportable :

Yes No