

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.20634 of 2021
Date of Decision: June 10, 2021

Rahul

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Varun Goyal, Advocate,
for the petitioner.

MANOJ BAJAJ, J. (Oral)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail in case FIR No.125 dated 20.05.2020, under Section 21 NDPS Act, 1985, registered at Police Station, Adampur, District Jalandhar.

Since the petitioner was already extended the concession of regular bail, therefore, anticipatory bail petition may not be maintainable and resultantly, at this stage, learned counsel for the petitioner 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. Saurav Khurana, learned Deputy Advocate General, Punjab accepts notice on behalf of respondent-State.

Learned counsel for the petitioner contents that the petitioner

was extended the concession of regular bail by the trial court vide order dated 16.06.2020 (Annexure P-2) and subsequently he kept on appearing before the Court below. However, on 10.02.2021, the petitioner did not appear before the Court due to some medical emergency in the family and on account of his absence on the actual adjourned date, his bail was cancelled and the matter was adjourned to 19.03.2021.

On the other hand, learned State counsel has opposed the prayer on the ground that order passed by the Court below rejecting the bail of the petitioner is well reasoned. He has pointed out that the case is now fixed for 22.09.2021 before the trial court.

After hearing the learned counsel for the parties, this court finds that the petitioner was already on bail, who never misused the said concession and absented on 10.02.2021. On account of this solitary absence, the trial court proceeded to pass the extreme order of cancellation of bail. Many a times, the accused can be prevented by a sufficient reason to put in appearance before the trial court and such an absence cannot necessarily be construed as willful or deliberate.

In the present case, because of medical emergency, the petitioner failed to appear on 10.02.2021 and the explanation offered appears to be genuine, as this court is also cognizant of the outbreak of pandemic Covid-19.

Considering the above, the petition is allowed and the order dated 10.02.2021 (Annexure P-3) is quashed. He petitioner is directed to appear before the trial court within one week from the date of receipt of certified copy of this order and on his doing so, he be allowed to remain on bail on the same bail bonds and surety bonds, furnished by him before the

trial Court.

June 10, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No