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

CRM-M-22573-2021

Date of Decision: 09.06.2021

Jagtar Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Arshdeep Singh Brar, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of pre-arrest bail in case FIR No.31 dated 16.03.2020, under Section 379-B IPC, 1860 and Sections 25 and 27 Arms Act, registered at Police Station Baghapurana, District Moga.

Learned counsel for the petitioner has submitted that the petitioner was allowed regular bail and thereafter, he kept on appearing regularly before the Court below. However, on 05.03.2021, petitioner did not appear before the trial Court as wrong date of hearing was noted down as 03.05.2021 instead of 05.03.2021 and on account of his absence on the actual adjourned date, his bail was cancelled. He prays for anticipatory bail.

When learned counsel was confronted with the maintainability of the petition under Section 438 Cr.P.C., as the petitioner had been granted bail by trial Court under Section 439 Cr.P.C., he makes a prayer to treat the petition under Section 482 Cr.P.C. for laying a challenge to order dated 05.03.2021 (Annexure P-3). The prayer is accepted.

At this stage, Mr. Saurav Khurana, DAG, Punjab, accepts notice on behalf of respondent-State.

A perusal of the order dated 05.03.2021 reflects that the trial Court proceeded to pass the extreme order of cancelling the bail of petitioner for the solitary absence of petitioner, who was on bail since 04.01.2021. 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 such an 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 05.03.2021 (Annexure P-3) and subsequent issuance of warrants, if any, are set aside subject to appearance of the petitioner before the trial Court on or before 18.06.2021 and upon his appearance, he shall be allowed to remain on the same bail bonds and surety bonds.

Disposed off.

09.06.2021

Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No