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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46303-2021

Date of Decision: 08.11.2021

Keshav Dass @ Vicky

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Dinesh Nagar, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in case FIR No.0011 dated 24.02.2019 under Section 15 NDPS Act, 1985, registered at Police Station Balachaur, District SBS Nagar, who apprehends his arrest at the hands of police, pursuant to the cancellation of his bail vide order dated 03.09.2021 (Annexure P-2), passed by the trial Court.

Learned counsel for the petitioner has submitted that vide order dated 28.11.2019, petitioner was granted pre arrest bail by this Court and thereafter, he kept on appearing regularly before the Court below. However, on 03.09.2021, petitioner did not appear before the trial Court as he is a truck driver and was away to Leh-Ladhakh (J&K) and was held up there and the Court proceeded to cancel his bail and forfeited the bail bonds vide order dated 03.09.2021 (Annexure P-2). He submits that the petitioner is ready and willing to participate in the trial proceedings and the date of hearing is now fixed for 01.12.2021.

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, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of the respondent-State and states that the advance copy of the petition has already been received by him. He opposes the prayer and submits that since the petitioner was well-aware of the date of hearing before the trial Court, but he failed to appear, therefore, the Court is justified in cancelling his bail. However, it is not disputed by him that the case is coming up before the trial Court for hearing on 01.12.2021.

A perusal of the order dated 03.09.2021 (Annexure P-2) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner, who was on bail since 28.11.2019. 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 by petitioner for non appearance before the appellate Court appears to be justified and therefore, the same is accepted.

Apart from the above, this Court is of the opinion that the impugned order has been passed recently and in case, the petitioner is allowed to join the trial proceedings, it would facilitate the prosecution to continue with the trial.

Consequently, the impugned order dated 03.09.2021 (Annexure P-2) is set aside subject to appearance of the petitioner before the trial Court on or before the next date of hearing i.e.01.12.2021 and he is allowed to

remain on the same bail bonds and surety bonds. In the event of non-compliance of this order, the order dated 03.09.2021 would remain intact.

Disposed off.

08.11.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No