

123-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48443-2021

Date of Decision: 22.11.2021

Ushwa Golfrey Amka

.. Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Ms. Garima Sharma, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for setting aside the impugned order dated 08.10.2021 (Annexure P-2) passed by the trial Court in case FIR No.556 dated 21.08.2019, registered under Sections 21(c) and 27(a) NDPS Act, 1985, Section 14(a)(b) Foreigner Act and Section 12(c) Passport Act, 1976, at Police Station Hansi City, District Hisar, whereby his bail was cancelled.

Learned counsel for the petitioner has submitted that vide order dated 03.08.2021, petitioner was granted regular bail by this Court and thereafter, he kept on appearing regularly before the trial Court. However, on 08.10.2021, he did not appear before the trial Court and the petitioner's counsel had filed an application seeking exemption from his personal appearance, but the trial Court proceeded to decline the exemption and cancelled his bail and forfeited the bail bonds vide order dated 08.10.2021 (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

06.12.2021.

Notice of motion.

At this stage, Mr. Sukhdeep Parmar, DAG, Haryana, 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 06.12.2021.

A perusal of the order dated 08.10.2021 (Annexure P-2) reflects that the trial Court did not accept the ground raised by the petitioner in his application seeking exemption for personal appearance and proceeded to cancel his bail. 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 08.10.2021 (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.06.12.2021 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 08.10.2021 (Annexure P-2) would remain intact.

Disposed off.

22.11.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No