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

CRM-M-48404-2021

Date of decision-23.11.2021

Sanjay Kumar

....Petitioner

Vs.

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Bhavdeep Singh Mamli, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in case FIR No.1233 dated 23.12.2018 under Section 15 Narcotic Drugs and Psychotropic Substances Act, 1985 (Sections 25 and 29 NDPS Act and Section 420 IPC added later on) registered at Police Station Hisar Sadar, District Hisar.

Learned counsel for the petitioner has submitted that vide order dated 25.03.2019 (Annexure P-2), petitioner was granted anticipatory bail by this Court and thereafter, he kept on appearing regularly before the trial Court. However, on 10.11.2021, petitioner did not appear before the trial Court, because when he was on his way to trial Court from Mandi, Himachal Pradesh, the clutch plate of his car broke down and he absented, consequently, the Court proceeded to

cancel his bail and forfeited the bail bonds. In this regard he has placed on record the repair bill of his car as Annexure P-3. Learned counsel states that the case is now fixed before the trial Court for 24.11.2021 and the petitioner is ready and willing to join the trial proceedings.

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 this stage, Mr. Sukhdeep Parmar, DAG, Haryana accepts notice on behalf of the respondent-State and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail since 25.03.2019 and had been appearing before the trial Court.

A perusal of the order dated 10.11.2021 (Annexure P-4) 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 25.03.2019. 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 the petitioner behind his non appearance before the trial Court on 10.11.2021 appears to be probable and therefore, the same is accepted.

Considering the above, the impugned order dated

10.11.2021 (Annexure P-4) is set aside subject to his putting in appearance before the trial Court on the next date of hearing i.e.24.11.2021 and he is allowed to remain on the same bail bonds and surety bonds. In case, petitioner does not appear, the order dated 10.11.2021 shall remain intact.

Disposed off.

(MANOJ BAJAJ)
JUDGE

23.11.2021

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No