

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

CRM-M-50394-2021

Date of decision-02.12.2021

Sanjay @ Laddu

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Raj Kumar Gupta, 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.11 dated 24.02.2019 under Sections 15, 25 and 29 Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Balachaur, District SBS Nagar.

Learned counsel for the petitioner has submitted that vide order dated 07.07.2020, petitioner was granted the concession of regular bail by this Court and thereafter, he kept on appearing regularly before the trial Court. However, on 17.08.2021, petitioner did not appear before the trial Court, because he was in isolation for a period of ten days 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 prescription slip as Annexure P-3. Learned counsel states that on the said date, another co-accused Hari Om was not produced by

the police, therefore, in his absence, no effective proceedings could have taken place. He further submits that the case is now fixed before the trial Court for 28.01.2022 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. Ramandeep Singh Sandhu, Sr.DAG, Punjab 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 07.07.2020 and had been appearing before the trial Court.

A perusal of the order dated 17.08.2021 (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 07.07.2020. 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 17.08.2021 appears to be probable and therefore, the same is accepted.

Considering the above, the impugned order dated 17.08.2021 (Annexure P-2) is set aside subject to his putting in appearance before the trial Court within one week and he is allowed to remain on the same bail bonds and surety bonds. In case, petitioner does not appear, the order dated 17.08.2021 shall remain intact.

Disposed off.

(MANOJ BAJAJ)
JUDGE

02.12.2021

vanita

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