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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53512-2021 (O&M)
Date of Decision: 21.12.2021

Gurjit Singh @ Gurjeet Singh
Vs.

.. Petitioner

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Neeraj Yadav, 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 11.10.2021 (Annexure P-2) passed by the trial Court in case FIR No.83 dated 06.11.2017, registered under Section 22 NDPS Act, 1985, at Police Station Mehta, whereby his bail was cancelled.

Learned counsel for the petitioner has submitted that vide order dated 28.11.2017, petitioner was granted regular bail by the trial Court and thereafter, he kept on appearing regularly before the trial Court. However, on 11.10.2021, he fell sick and did not appear before the trial Court nor any application seeking exemption from his personal appearance was filed by his counsel and the trial Court proceeded to cancel his bail and forfeited the bail bonds vide order dated 11.10.2021 (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 10.01.2022.

Notice of motion.

At this stage, Ms. Jaspreet Kaur, AAG, Punjab, accepts notice on behalf of the respondent-State and states that the advance copy of the petition has already been received by her. She 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 her that the case is coming up before the trial Court for hearing on 10.01.2022.

A perusal of the order dated 11.10.2021 (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 regular bail since 28.11.2017. 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 11.10.2021 (Annexure P-2) is set aside subject to appearance of the petitioner before the trial Court within a period of 07 days 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 11.10.2021 (Annexure P-2) would remain intact.

Disposed off.

21.12.2021
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No