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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-9062-2022 in/and
CRM-M-6800-2022 (O&M)
Date of Decision:15.03.2022

Manjeet

..Applicant/Petitioner

Vs.

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sukesh Kumar Jindal, Advocate for applicant-petitioner.

...

Manoj Bajaj, J. (Oral)
CRM-9062-2022

The instant application is for pre-poning the date of hearing of the main petition to an early date.

Notice in the application.

At this stage, Mr. Sukhdeep Parmar, DAG, Haryana, accepts notice on behalf of the respondent-State and does not oppose the prayer.

Application is allowed and the date of hearing is pre-poned to today.

CRM-M-6800-2022 (O&M)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for setting aside the impugned order dated 11.10.2019 (Annexure P-2) passed by the trial Court in case FIR No.33 dated 28.01.2017, registered under Sections 323, 332, 353, 365, 395, 307 and 302 IPC and Section 25 Arms Act, 1959, at Police Station Sadar, Sonipat, whereby his bail was cancelled.

Learned counsel for the petitioner has argued that in the above FIR, the concession of regular bail was extended to the petitioner by this Court vide order dated 15.02.2019 (Annexure P-1) and thereafter, he kept on attending the trial proceedings regularly, but on 11.10.2019, the petitioner absented, as he was not feeling well and despite instructions to his counsel, the application for exemption from personal appearance was not moved on his behalf, therefore, the trial Court proceeded to cancel his bail vide order dated 11.10.2019 (Annexure P-2). Learned counsel has drawn the attention of the Court to the order dated 22.11.2019 (Annexure P-3) passed by this Court to assert that upon apprehension of arrest, he approached this Court and the petitioner was directed to submit himself before the trial Court and upon his appearance, it was directed that he be released on interim bail. Learned counsel has produced the copy of the order dated 25.11.2019 and submitted that order dated 22.11.2019 was complied with and the petitioner upon his appearance was released on interim regular bail and the bail bonds and surety bonds furnished by him were also accepted.

Learned counsel for the petitioner further submits that after the order dated 22.11.2019, the petitioner kept on appearing before the trial Court regularly, but finally vide order dated 09.02.2022, his pre arrest bail petition bearing No.CRM-M-49656-2019 was dismissed solely on the ground that the reasons for his absence are not supported with any documentary material. He submits that though the said petition was decided on merits, therefore, by virtue of the dismissal order, the interim concession also ceases to exist. He prays that the impugned order dated 11.10.2019

aside by considering the other subsequent circumstances. Learned counsel has stated that the case before the trial Court is now fixed for 16.03.2022 and the petitioner would continue to attend the date of hearings.

Notice of motion.

At this stage, Mr. Sukhdeep Parmar, DAG, Haryana, accepts notice on behalf of respondent-State and does not dispute the above sequence of events and has fairly stated that on account of solitary absence of petitioner on 11.10.2019, his bail was cancelled by the trial Court. According to him, since the petitioner failed to apply for exemption from personal appearance, therefore, the trial Court is justified in canceling his bail. However, it is not disputed that after his release on interim regular bail, he is appearing regularly before the trial Court.

After hearing the learned counsel for the parties and considering the above background, this Court finds that the petitioner regularly attended the trial proceedings not only before the cancellation of bail, but even after his release on interim regular bail and no doubt his previous petition seeking pre arrest bail under Section 438 Cr.P.C. was dismissed vide order dated 09.02.2022 by disbelieving the ground raised by the petitioner being not supported by any documentary material, but at this stage, it will not be fair to send the petitioner in custody, as it would not serve any useful purpose.

Be that as it may, merely because the petitioner failed to support the ground of absence with any documentary material, it cannot be said that he was not prevented by sufficient reason to attend the Court. At times, the accused or his counsel can be prevented by sufficient reasons to

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 this, it would be relevant to note that once regular bail of an accused is cancelled on account of absence, the remedy under Section 438 Cr.P.C. would not be maintainable. In this regard, reliance can be placed upon the decision dated 04.04.2019 delivered by this Court in ***CRM-M No.15464 of 2019 (Balwant Singh @ Banta Versus State of Punjab)***.

Thus, considering the above background, this Court finds that the exercise of inherent powers under Section 482 Cr.P.C. is justified to secure the ends of justice. Consequently, the impugned order dated 11.10.2019 (Annexure P-2) is set aside and it is ordered that in case, the petitioner submits himself before the trial Court on 16.03.2022, he be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court.

The petition is allowed.

15.03.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No