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

**CRM-M-13081-2022 (O&M)
Date of Decision:29.03.2022**

Subhash Chander

.. Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Anil Chawla, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed this petition under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in complaint No.NACT/1475 of 2019 filed under Section 138 Negotiable Instruments Act, 1881 (Annexure P-1).

Learned counsel for the petitioner has submitted that vide order dated 30.03.2019, petitioner was granted bail by the trial Court and thereafter, he kept on appearing regularly before the Court below. However, on 21.10.2021, the petitioner did not appear before the trial Court on account of noting down the wrong date and the trial Court proceeded to cancel his bail and forfeited the bail bonds vide order dated 21.10.2021 (Annexure P-3 colly). He submits that the petitioner is ready and willing to participate in the trial proceedings and the date of hearing is now fixed for 30.03.2022.

When learned counsel was confronted with the maintainability of the petition, he makes a prayer to treat the petition under Section 482

The prayer is accepted.

Notice of motion.

At this stage, Mr. Sandeep Singh Deol, DAG, Punjab, accepts notice on behalf of the respondent-State and 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 30.03.2022.

A perusal of the order dated 21.10.2021 (Annexure P-3 colly) 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 30.03.2019. 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 petitioner for non appearance before the appellate Court appears to be justified and therefore, the same is accepted.

Consequently, the impugned order dated 21.10.2021 (Annexure P-3 colly) is set aside subject to appearance of the petitioner before the trial Court on 30.03.2022 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 21.10.2021 (Annexure P-3 colly) would remain intact.

Disposed off.

29.03.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No