

105

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

CRM-M-16798-2022

Date of decision: 25.04.2022

Krishan Kumar**....Petitioner****Vs.****State of Punjab****...Respondent****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Mitul Singh Rana, Advocate for
Mr. Umesh Sharma, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner has preferred this petition under Section 438 Code of Criminal Procedure for grant of anticipatory bail in case FIR No.78 dated 14.03.2019 under Section 15 Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Model Town, Hoshiarpur.

Learned counsel for the petitioner has submitted that vide order dated 27.02.2020 (Annexure P-2), petitioner was granted the concession of regular bail, who continued to attend the trial proceedings regularly, but on 16.09.2021 (Annexure P-3), the trial Court proceeded to cancel his bail and issued the warrants of arrest as the petitioner absented. It is submitted that the petitioner's counsel could not inform him about the date fixed. He further submits that the case is now fixed before the trial Court for 09.05.2022 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. Dhruv Dayal, 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 27.02.2020 and had been appearing before the trial Court.

A perusal of the order dated 16.09.2021 (Annexure P-3) reflects that on the said date, one of the co-accused Jagdeep Singh had moved an application for exemption from personal appearance and the same was accepted, therefore, no effective proceedings were to take place, even if the accused/petitioner would have appeared before the trial Court. The trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non appearance before the trial Court is justified and therefore, the same is accepted.

Considering the above, the impugned order dated 16.09.2021 (Annexure P-3) is set aside subject to his putting in appearance before the trial Court on or before 09.05.2022 and he is allowed to remain on the same bail bonds and surety bonds. In case, petitioner does not appear, the order dated 16.09.2021 (Annexure P-3) shall remain intact.

Disposed off.

(MANOJ BAJAJ)
JUDGE

25.04.2022.

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Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No