

131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20204-2022

Date of decision : 12.05.2022

Chandi Ram and others

...Petitioners

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Jitender Kumar, Advocate for the petitioners.

MANOJ BAJAJ, J.

Petitioners have filed this petition under Section 482 Code of Criminal Procedure for quashing of order dated 28.02.2022 (Annexure P-3) passed by learned Additional Sessions Judge, Jalandhar, whereby while cancelling their bail, the bail bonds and surety bonds were also ordered to be forfeited and warrants of arrest have been issued. The impugned order arises from trial proceedings of case FIR No.167 dated 12.05.2019 registered under Sections 323, 341, 427, 506, 379-B Indian Penal Code, 1860 (Sections 148 and 149 IPC added later on) at Police Station Phillaur, District Jalandhar.

Learned counsel for the petitioners contends that vide orders dated 21.01.2020 and 15.07.2020 (Annexures P-2 and P-2-A), concession of anticipatory bail was extended to the petitioners by the this Court and thereafter, the petitioners kept on appearing before the trial Court regularly. It was on 28.02.2022, the petitioners absented and the trial Court proceeded to cancel their bail and forfeited the bail bonds. It is submitted that the petitioners had changed their counsel and earlier counsel did not inform them about the next date, which resulted in their absence on the given date.

Learned counsel for the petitioners has argued that the petitioners are ready and willing to join the proceedings and their absence on 28.02.2022 was *bona fide*. It is further pointed out that next date of hearing is 26.05.2022.

Notice of motion.

At this stage, Mr. Harpreet Singh Multani, AAG, 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 petitioners, however, it is not disputed by him that petitioners were already on bail since 21.01.2020 and 15.07.2020 and had been appearing before the trial Court.

A perusal of the order dated 28.02.2022 (Annexure P-3) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioners. 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 sequence of events, the impugned order 28.02.2022 (Annexure P-3) is set aside subject to appearance of the petitioners before the trial Court on or before 26.05.2022 and they are allowed to remain on the same bail bonds and surety bonds. In the event of non-compliance of this order, the order dated 28.02.2022 would remain intact.

Disposed off.

12.05.2022

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Whether speaking/reasoned :

Whether Reportable :

(MANOJ BAJAJ)
JUDGE

Yes No

Yes No