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

Date of Decision:06.07.2022

1. CRM-M-27312-2022 (O&M)

Atul Sood

.. Petitioner

Vs.

Shishpal Singh

..Respondent

2. CRM-M-27315-2022 (O&M)

Atul Sood

.. Petitioner

Vs.

Shishpal Singh

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner has filed these separate petitions under Section 482 Code of Criminal Procedure for setting aside the impugned order(s) dated 09.03.2022 (Annexure P-4) passed by the Appellate Court in CRA No.463/2019 and CRA No.466/2019 challenging the respective judgments of conviction and orders of sentence passed by the trial Court, in complaint case under Section 138 Negotiable Instruments Act, 1881, whereby his bail was cancelled and nonailable warrants were issued to secure his presence.

Learned counsel for the petitioner has submitted that vide order dated 30.10.2019, the sentence of the petitioner was suspended in both the appeals subject to deposit of 20% of the compensation amount and thereafter, he kept on appearing regularly before the Appellate Court. However, on 09.03.2022, he did not appear before the Appellate Court on account of noting down the wrong date and the Appellate Court proceeded to cancel his bail and forfeited the bail bonds vide separate orders dated

09.03.2022 (Annexure P-4) in both the appeals. He submits that the

petitioner is ready and willing to participate and pursue his appeals, which are now fixed for 16.07.2022 and no prejudice would be caused to the respondent (complainant) in case the petitioner is allowed to join the proceedings before the appellate Court.

After hearing the learned counsel and considering the facts and circumstances of this case, this Court is of the opinion that the explanation offered by petitioner for non appearance before the Appellate Court appears to be justified, consequently, the same is accepted.

Further, considering the nature of the relief prayed for by the convict (petitioner), this Court is not inclined to issue notice of this petition to the respondent (complainant), as it would result in unnecessary burden upon him to contest this case. However, it is made clear that in case any of the facts as pleaded in the petition are found to be incorrect or misleading, it shall be open for the respondent to move an application for recalling of this order.

A perusal of the order dated 09.03.2022 (Annexure P-4) reflects that the Appellate Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner, who was on bail since 30.10.2019. 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.

Resultantly, the impugned orders dated 09.03.2022 (Annexure P-4) are set aside subject to appearance of the petitioner before the Appellate Court on or before 16.07.2022 and he is allowed to remain on the same bail bonds and surety bonds. In the event of non-compliance of this

order, the orders dated 09.03.2022 (Annexure P-4) would remain intact.

Disposed off.

06.07.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No