

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

**CRM-M-38277-2022**

**Date of Decision: August 26, 2022**

**Surjit Singh**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

**Present:-** Mr. Harmeet Singh, Advocate for the petitioner.

**AMAN CHAUDHARY, J.(Oral)**

Present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing the order dated 19.04.2022 (Annexure P-3), whereby his bail/surety bonds have been cancelled and non-bailable warrants had been issued against the petitioner, in case FIR No.0156, dated 22.10.2017, under Sections 21 and 62 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and 25 of the Arms Act, 1959, registered at Police Station Dasuya, District Hoshiarpur.

Learned counsel for the petitioner refers to the impugned order Annexure P-3, to submit that the said order was passed on account of the fact that the petitioner was unable to appear before the Court on 19.04.2022. However, in the aforesaid order, it has been mentioned that the petitioner had turned up on the previous date of hearing and surrendered before the Court whereupon he was released on bail in view of the order passed on 08.01.2018 by Special Judge, Hoshiarpur whereby his anticipatory bail was confirmed. But, he did not turn up on the date fixed i.e. 19.04.2022, consequently the impugned order has been passed whereby his bail/surety bonds have been cancelled. He was summoned through non-bailable warrants for 16.08.2022.

Learned counsel for the petitioner submits that the petitioner had surrendered before the Court and had been appearing regularly as stated in para 6 of the petition but on 19.04.2022 he was unable to appear only on account of the fact that his counsel did not inform the next date to him. It is submitted that as such his absence was not wilful or deliberate but was due to the fault of his counsel, for which he must not suffer especially when his ready and willing to attend each and every dated of hearing for which he is ready to furnish an undertaking before the trial Court, in case, he is granted only one opportunity which may be subject to imposition of costs to surrender, appear and seek bail. In support of his arguments, learned counsel for the petitioner relies upon the judgment dated 19.01.2022 passed by a Coordinate Bench of this Court in CRM-M-968-2022, titled as ***“Manpreet Singh vs. State of Punjab”***.

Notice of motion.

On advance notice, Mr. Mavpreet Singh, DAG, Punjab, appears and accepts notice on behalf of the State. He opposes the present petition and states that the impugned order had rightly been passed by learned trial Court on account of non-appearance of the petitioner.

Heard the learned counsel for the parties.

No order prejudicial to the rights of complainant is being proposed to be passed by this Court, thus, there is no requirement for him to be arrayed as a party respondent.

The reason that has come forth in this case is that petitioner was not informed of the date by his counsel, which led to his non-

appearance. It is the positive case of the petitioner that he had otherwise surrendered and was regularly appearing as it has been stated in para 6 of the petition, which fact has not been so disputed by the learned State counsel. However, on account of default of learned counsel, a reliance can be placed on a case of ***Rafiq and another vs Munshilal and another***” by the Hon'ble Supreme Court of India, reported as AIR 1981 SC 140, which reads thus:-

*“What is the fault of the party who having done everything in his power expected of him, would suffer because of his advocate ..... The problem that agitates us is whether it is proper that a party should suffer for the inaction, deliberate omission, or misdemeanour of his agent ..... We cannot be a party to an innocent party suffering injustice merely because of his chosen advocate defaulted.”*

A coordinate bench of this Court, in ***Manpreet Singh's*** case (*supra*), which has been relied on by the learned counsel for the petitioner, had in somewhat similar circumstances had also set aside the order of issuance of non-bailable warrants in a case where the petitioner could not cause appearance before the trial Court.

It may be noticed that, as is, the submission of the learned counsel for the petitioner that the non-appearance of the petitioner was on one date i.e. 19.04.2022, on account of the fact that his counsel did not inform him about the date fixed. This Court finds the explanation of the petitioner to be apparently genuine, though it was the duty of the petitioner also to keep track of his case and could have enquired the next date from his counsel. However, keeping in view the very purpose of issuance of non-bailable warrants, being, to secure the presence of the

petitioner so that he appears in trial, this Court is of the view that the ends of justice would be met, in case, the petitioner is directed to appear before the trial Court in a stipulated time and furnish fresh bail/surety bonds.

In view the peculiarity of the facts and circumstances of the case and the judgment passed by the Hon'ble Supreme Court of India and a Coordinate Bench of this Court, as referred to above, the present petition is allowed and the impugned order dated 19.04.2022 (Annexure P-3) is set aside, subject to costs of Rs.5000/- to be deposited by the petitioner with the Poor Patient's Welfare Funds, PGIMER, Chandigarh. In case the petitioner appears before the trial Court within a period of 30 days from today, the trial Court is directed to release him on bail subject to his furnishing fresh bail /surety bonds to the satisfaction of the concerned trial Court and the petitioner giving an undertaking by way of his affidavit to the trial Court that he would appear on each and every date of hearing, unless his personal appearance is specifically exempted by the Court.

It is however, made clear that if the aforesaid conditions are not complied with by the petitioner, within the stipulated period, in that eventuality the present petition shall be deemed to have been dismissed, with no further reference to this Court.

**August 26, 2022**  
sarita

**(AMAN CHAUDHARY)**  
**JUDGE**

Whether reasoned/speaking: Yes/No  
Whether reportable: Yes/No