

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

CRM-M-45422-2022

Date of decision: 29.09.2022

Gurpal Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Ajay Pratap Singh, Advocate
for the petitioner.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for quashing the impugned order dated 09.08.2022 (Annexure P-2) passed by the Court of learned JMIC 6, Jalandhar, whereby, his bail bonds and surety bonds have been cancelled and ordered to be forfeited to the State and non-bailable warrants of arrest have been issued on account of his absence on 09.08.2022 for 22.09.2022 and notice to the surety of the accused has also been ordered to be issued through non-bailable warrants for the date fixed. The impugned order arises from trial proceedings of case FIR No.72 dated 16.04.2018 registered under Section 411 of IPC and Section 25 of Arms Act registered at Police Station Kartarpur District Jalandhar (Rural).

Learned counsel for the petitioner contends that the petitioner was already on regular bail. He kept on appearing before the trial Court regularly, however, on 09.08.2022, the petitioner could not appear due to the protest and strike of buses regarding which the petitioner informed his counsel and the counsel for the petitioner moved an application for exemption before the learned JMIC, Jalandhar, which was kept by the Reader of the Court in his custody to be placed in the requisite file but however, the Reader

did not place the said exemption application in the file and rather misplaced the same and due to which the petitioner was marked absent and his non-bailable warrants have been issued for 22.09.2022. He further submits that the petitioner is ready and willing to join the trial proceedings and undertakes to be present in Court on each and every date.

Notice of motion.

At this stage, Mr. Ferry Sofat, Addl.A.G. 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 and had been appearing before the trial Court.

A perusal of the order dated 09.08.2022 (Annexure P-2) reflects that 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 appears to be justified and therefore, the same is accepted.

Considering the above sequence of events, the impugned order 09.08.2022 (Annexure P-2) is set aside subject to appearance of the petitioner before the trial Court on or before 10.10.2022 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 09.08.2022 would remain intact.

The petition is disposed of in above terms.

29.09.2022
Neha

(NAMIT KUMAR)
JUDGE

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