

CRM-M-47640-2022

Date of decision: 17.10.2022

Vinod Kumar

.....Petitioner

versus

State of U.T. Chandigarh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Jatin Khullar, Advocate
for the petitioner.**NAMIT KUMAR, J.**

This petition has been filed under Section 482 Cr.P.C. for quashing of impugned order(s) dated 09.09.2022 and 04.10.2022 (Annexures P-9 & P-10), whereby, while cancelling his bail, the bail bonds and surety bonds were also ordered to be forfeited and non-bailable warrants of arrest have been issued. The impugned order (s) arises from trial proceedings in a case bearing NACT No.1674 of 2019 dated 01.02.2019 titled as 'Anil Kumar versus Vinod Kumar.'

Learned counsel for the petitioner contends that the petitioner was granted regular bail in the complaint filed by the complainant under Section 138 of the Negotiable Instruments Act and he kept on appearing before the trial Court regularly till 08.08.2022 and it was only on 09.09.2022, the petitioner did not appear and moved an application for exemption of his personal appearance through his counsel on the ground that he went for performing last rites of his relative but the trial Court proceeded to cancel his bail and issued non-bailable warrants for 04.10.2022. Notice to surety of the petitioner was also issued for the date fixed. He further submits that the case is now fixed before the trial Court on 16.11.2022 and the petitioner is ready and willing to join the trial Court proceedings.

Given the nature of the case, this Court deem it appropriate to issue notice of motion to official respondent No.1 at this stage.

Mr. J.S. Toor, Addl.P.P. puts in appearance and accepts notice on behalf of respondent No.1-U.T. Chandigarh and submits that the impugned order(s) have 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, regularly.

A perusal of the order dated 09.09.2022 (Annexure P-9) 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 is justified and therefore, the same is accepted.

Considering the above sequence of events, the impugned order (s) 09.09.2022 and 04.10.2022 (Annexures P-9 & P-10) are set aside subject to the appearance of the petitioner before the trial Court on or before 28.10.2022. On appearance he shall be released on bail and would be allowed to remain on the same bail bonds and surety bonds. In the event of non-compliance of this order, the order(s) dated 09.09.2022 & 04.10.2022 would remain intact.

The petition is disposed off in above terms.

17.10.2022
Neha

(NAMIT KUMAR)
JUDGE

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