

CRM-M-53099-2022

Date of decision: 17.11.2022

MANGU @ MANGTU

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Naveen Bawa, Advocate
for the petitioner.

Mr. Ferry Sofat, Addl. AG Punjab.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 06.04.2022 (Annexure P-3) passed by the trial Court in case FIR No. 67 dated 02.08.2018 under Section 22 of the NDPS Act at Police Station Mehta, District Amritsar (Annexure P-1).

Learned counsel for the petitioner contends that vide order dated 02.08.2018, the petitioner was granted the concession of regular bail who continued to attend the trial proceedings regularly. However, on 06.04.2022, he failed to appear before the trial Court due to noting down of wrong date i.e. 08.04.2022 instead of 06.04.2022. Hence, his absence was unintentional and bona fide. Reasons for the same have been mentioned in para No. 5 of the present petition. The absence of the petitioner resulted into passing of the order dated 06.04.2022, whereby the learned trial Court proceeded to cancel his bail and issued the non-bailable warrants.

He further submits that the petitioner is ready and willing to join the trial proceedings.

Notice of motion.

At this stage, Mr. Ferry Sofat, Addl. AG Punjab, who is present in the Court accepts notice on the asking of the Court and submits that the impugned order has been passed on the sole ground of absence of the petitioner, however, it is not disputed by him that the petitioner was on regular bail since 04.09.2018 and had been appearing before the trial Court.

A perusal of the order dated 06.04.2022 (Annexure P-1) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary reason of absence of the petitioner.

Many a times, the accused can be prevented by sufficient reasons to put in appearance before the Court on a given date, which necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non-appearance and unintentional absence before the trial Court is accepted.

In view of the same, the order dated 06.04.2022 (Annexure P-2) is set aside. The petitioner is directed to appear before the trial Court on 07.12.2022 and is allowed to remain on bail on the same bail bonds and surety bonds.

In case, the petitioner does not appear before the trial Court on the given date, the order dated 06.04.2022 (Annexure P-3), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

17.11.2022

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No