

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

CRM-M-54275-2021 (O&M)

Date of decision: 05.01.2022

Deepak Malik and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ranbir Singh Rawat, Advocate for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through the instant petition under Section 482 Cr.P.C., the petitioners seek quashing of order dated 27.10.2021 passed by the learned Additional Chief Judicial Magistrate, Mohali, vide which the bail granted to the petitioners was cancelled and non-bailable warrants were issued against them, in case bearing FIR No. 27 dated 29.03.2017 registered under Sections 420, 406, 465, 467, 471 and 120-B IPC, at Police Station Phase-11, District Mohali.

Learned counsel for the petitioners submits that in the present case, ad-interim anticipatory bail was granted to the petitioners by this Court; that the petitioners had been regularly appearing before the learned trial Court; that at one stage petitioner No. 1 tested positive for Covid-19 in the month of April, 2021, even then the petitioner has been regularly appearing

before the learned trial Court; but on 27.10.2021, they could not appear before the Court as the learned proxy counsel had noted a wrong date i.e. 28.10.2021 instead of 27.10.2021 and that accordingly, their bail order was cancelled and forfeited to the State and non-bailable warrants were issued for 30.11.2021. On 30.11.2021, the non-bailable warrants could not be executed and now the case is fixed for 02.02.2022. Moreover, they have never jumped the earlier bail at any stage. It is, thus, contended that non-appearance of the petitioner was neither intentional nor wilful, but for the reasons explained above.

Notice of motion.

On the asking of this Court, Mr. H.S. Multani, AAG Punjab, accepts notice on behalf of the respondent-State.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on a solitary date i.e. 27.10.2021, due to noting a wrong date and therefore, their non-appearance on the said date was unintentional.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

In view of the above, without commenting on the merits of the case, this petition is disposed of with a direction to the petitioners to

surrender before the trial Court 02.02.2022 and they shall be released on bail, subject to them furnishing bail/surety bonds to the satisfaction of the trial Court.

(HARNARESH SINGH GILL)
JUDGE

05.01.2022

Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No