

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

CRM-M-50462-2022

Date of decision: 16.11.2022

Chaand

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. A.D.S. Sukhija, Advocate
for the petitioner.

Mr. Adhiraj Singh, A.A.G., Punjab.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for quashing of impugned order dated 18.05.2022 (Annexure P-2) passed by the Learned ACJM, Patiala, 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 on account of his absence on 18.05.2022. The impugned order arises from trial proceedings of case FIR No.42 dated 16.03.2017 registered under Sections 325, 323, 341, 506 & 34 of IPC at Police Station Urban Estate, Patiala.

Learned counsel for the petitioner contends that the petitioner was already on regular bail and thereafter, he kept on appearing before the trial Court regularly, however, on 18.05.2022, the trial Court has inadvertently not marked the presence of the petitioner in one case as he was present on the same day in another FIR and the Court proceeded to cancel his bail and issued the non-bailable warrants for 01.09.2022. Notice

to his surety was also issued for the date fixed. Thereafter, he moved an application before Sessions Judge, Patiala and his arrest was stayed provided he appears & surrenders before the trial Court within ten days. On 26.09.2022, time to appear and surrender before the trial Court was extended till 03.10.2022. Since the petitioner could not appear and surrender before the trial Court upto 03.10.2022, on 07.10.2022, his interim bail was vacated. He submits that the petitioner is a victim of circumstances, which were beyond his control. 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. Adhiraj Singh, A.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 18.05.2022 (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 is justified and therefore, the same is accepted.

Considering the above sequence of events, the impugned order

18.05.2022 (Annexure P-2) is set aside subject to appearance of the petitioner before the trial Court on or before 30.11.2022 and on his doing so, he shall be released on bail and allowed to remain on the same bail bonds and surety bonds. In the event of non-compliance of this order, the order dated 18.05.2022 would remain intact.

The petition is disposed of in above terms.

16.11.2022
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(NAMIT KUMAR)
JUDGE

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