

BALJIT SINGH

...Petitioner

V/s

STAT OF PUNJAB

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

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

Mr. Jashandeep Singh, Assistant 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 17.08.2022 (Annexure P-6) passed by the Learned Judicial Magistrate Ist Class, Jagraon, Ludhiana in case FIR No. 187 dated 10.07.2017 registered under Sections 379, 411, 465, 468 and 471 of the Indian Penal Code at Police Station Sidhwan Bet, Jagraon, Ludhiana.

Learned counsel for the petitioner contends that vide order dated 17.08.2017, the petitioner was granted the concession of regular bail by learned Additional Sessions Judge, Ludhiana, and thereafter he continued to attend the trial proceedings regularly. However, on 01.11.2021, he failed to appear before the trial Court due to noting down of wrong date i.e. 30.10.2021 instead of 01.11.2021 and the trial Court issued warrants of arrest against the petitioner. Then he filed application for anticipatory bail before the Additional Sessions Judge, Ludhiana, who dismissed the bail application only on the ground of maintainability as the bail bonds were still in existence. However, the petitioner was directed to surrender before learned trial Court and to furnish bail bonds and surety bonds as per bail order already granted by learned Additional Sessions Judge, Ludhiana vide order dated 17.08.2017. The said order was passed on 27.07.2022. In compliance of the said order dated 27.07.2022 passed by the

Additional Sessions Judge, Ludhiana, the petitioner moved an application before the trial Court for accepting bail bonds and surety bonds. Trial Court accepted the same but due to non-appearance of the petitioner on that day, non-bailable warrants of the petitioner were issued and his bail order was cancelled. It is also contended that no notice was served upon the petitioner to appear in the Court and the order was passed in a mechanical manner. Hence, his absence was unintentional and bona fide. Reasons for the same have been mentioned in para No. 6 of the present petition. The absence of the petitioner resulted into passing of the order dated 17.08.2022, 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. Jashandeep Singh, Assistant AG Punjab, who is present in the Court accepts notice on the asking of the Court and submits that the order 17.08.2022 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 17.08.2017 and had been appearing before the trial Court.

A perusal of the order dated 17.08.2022 (Annexure P-6) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail on the ground of non-appearance of the petitioner without issuing him any notice of appearance and the order was passed in a technical manner.

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 17.08.2022 (Annexure P-6) is hereby set aside. The petitioner is directed to appear before the trial Court on 05.12.2022 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 orders dated 17.08.2022 (Annexure P-6), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

18.11.2022

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No