

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

CRM-M-56669-2022

Date of decision: 05.12.2022

Ajay Kumar Sharma @ Ajay Mali

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for quashing of impugned order dated 08.09.2022 (Annexure P-2) passed by the ADJ, District Bathinda, 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 08.09.2022. The impugned order arises from trial proceedings of case FIR No.64 dated 17.07.2018 registered under Section 20 of the NDPS Act registered at Police Station SGN Dev Thermal Plant, District Bathinda (Annexure P-1).

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 08.09.2022, the petitioner was absent as he was not well and got twisted his right foot and the Court proceeded to cancel his bail and issued the non-bailable warrants for 14.11.2022. He had moved an anticipatory bail application but the same was rejected vide order dated 21.11.2022. He further submits that the case is now fixed before the trial Court for 25.01.2023 and 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. Ravinder Singh, AAG, Punjab puts in appearance and 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 08.09.2022 (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 08.09.2022 (Annexure P-2) is set aside subject to appearance of the petitioner before the trial Court on or before 14.12.2022. On his appearance, he shall be released on bail by the trial Court and he is allowed to remain on the same bail bonds and surety bonds. In the event of non-compliance of this order, the order dated 08.09.2022 would remain intact.

The petition is disposed of in above terms.

05.12.2022
Neha

(NAMIT KUMAR)
JUDGE

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