

CRM-M-57933-2022

Date of decision: 13.12.2022

Sukhwinder Singh @ KalaPetitioner

versus

State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Lakshay Bector, Advocate
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure seeking quashing of impugned order dated 25.03.2022 (Annexure P-5) passed by the learned Additional Sessions Judge, Ludhiana, whereby, while cancelling his bail, the bail bonds and surety bonds were also ordered to be forfeited and non-bailable warrants of arrest and notice to his surety have been issued on account of his absence on 25.03.2022. The impugned order arises from trial proceedings of case FIR No.30 dated 01.02.2018 registered under Section 22 of the NDPS Act, registered at Police Station City Khanna, District Ludhiana.

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 25.03.2022, the petitioner was absent as there was a COVID-19 pandemic due to which the Courts were working in a restrictive manner and because of the miscommunication between the petitioner and the Clerk of the Advocate representing him, he could not appear and the Court proceeded to cancel his bail and issued the non-bailable warrants for 23.08.2022. The next date of hearing before the trial Court is 28.07.2023. 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, 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 25.03.2022 (Annexure P-5) 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 25.03.2022 (Annexure P-5) is set aside subject to appearance of the petitioner before the trial Court on or before 21.12.2022. On his appearance, he shall be released on bail by the trial Court on his furnishing fresh bail bonds and surety bonds to the satisfaction of the trial Court. In the event of non-compliance of this order, the order dated 25.03.2022 would remain intact.

The petition is disposed off in above terms.

13.12.2022
Neha

(NAMIT KUMAR)
JUDGE

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