

CRM-M-59255-2022

Date of decision: 19.12.2022

Swaran Chand

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Ms. Satpreet Grewal Kapila, 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 07.10.2022 (Annexure P-3) passed by the learned Judge, Special Court, Jalandhar, 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 07.10.2022. The impugned order arises from trial proceedings of case FIR No.171 dated 06.10.2019 registered under Section 15 of the NDPS Act, 1985, registered at Police Station Adampur, District Jalandhar (Rural).

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 07.10.2022, the petitioner was absent as he noted down the wrong date i.e. 17.10.2022 instead of 07.10.2022 and the Court proceeded to cancel his bail and issued the non-bailable warrants for 16.11.2022. 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 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 07.10.2022 (Annexure P-3) 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 07.10.2022 (Annexure P-3) is set aside subject to appearance of the petitioner before the trial Court within seven days from today. 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 07.10.2022 would remain intact.

The petition is disposed off in above terms.

19.12.2022
Neha

(NAMIT KUMAR)
JUDGE

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