

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

CRM-M-1521-2023

Date of Decision: January 12, 2023

Dalip Kumar @ Dalip Bhandari

..... Petitioner

Versus

State of U.T. Chandigarh

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Liaquat Ali, Advocate for the petitioner.

HARKESH MANUJA, J. (ORAL)

By way of present petitioner filed under Section 438 of the Code of Criminal Procedure, a prayer has been made for grant of anticipatory bail in case of FIR No 20 dated 22.01.2021 under Sections 379-A, 411, 34 of IPC, Police Station Section-39, Chandigarh.

The facts of the case are that in pursuance to the registration of aforementioned FIR, the petitioner was granted the concession of regular bail by the Court of Addl. Sessions Judge, Chandigarh vide order dated 03.03.2021. Thereafter the petitioner has been appearing before the trial Court, however, on 17.11.2022 on account of non-appearance of the petitioner before the trial Court, his bail bonds were cancelled and surety bonds forfeited followed by issuance of non-bailable warrants against him for 19.01.2023.

Relying upon his medical condition, stating himself to be addicted to intoxicating substances and having remained admitted in the drug counseling and rehabilitation centres from time to time, the petitioner moved an application for grant of anticipatory bail before the learned Addl.

Sessions Judge, Chandigarh invoking Section 438 of the Code of Criminal Procedure. The prayer made by the petitioner was declined vide order dated 22.12.2022. It is the said order which has been challenged by way of present petition.

Learned counsel for the petitioner submits that the petitioner being an addict of prohibited intoxicants has regularly been admitted in the Counseling and Rehabilitation Centres and as such, he repeatedly requested his counsel before the trial Court to either inform him or his mother about the date of hearing before the trial Court. Learned counsel for the petitioner submits that there was a serious communication gap between the petitioner and his counsel as regards the date of hearing being 17.11.2022 and as such, he could not appear before the concerned Court resulting into cancellation of his bail bonds and forfeiture of his surety bonds.

He also submits that the non-appearance of the petitioner was neither intentional nor willful and had occurred on account of bona fide reasons explained in the application filed before the trial Court. Learned counsel for the petitioner further submits that the petitioner shall always continue to appear before the Court below unless granted exemption specifically.

Notice of motion.

Mr. A.M. Punchhi, P.P. with Mr. Anupam Bansal, Addl. P.P. for U.T. Chandigarh, who are present in Court, accepts notice on behalf of the U.T. Chandigarh and oppose the prayer made in the petition by submitting that once the bail bonds stand cancelled, surety bonds are forfeited, the prayer made for anticipatory bail is not maintainable.

I have heard learned counsel for the parties and gone through the paper-book.

Without going into the aspect of maintainability of the anticipatory bail application filed by the petitioner and considering the fact that the petitioner appears to be an addict of narcotic substances and has regularly remained admitted in the Counseling and Rehabilitation Centres as well as hospitals, there does not appear to be any justifiable reason to disbelieve the reason explained by the petitioner for his non-appearance before the Court below on the concerned date i.e. 17.11.2022. There has been no delay on the part of the petitioner for approaching the Court as the bail bonds were cancelled on 17.11.2022 and the application under Section 438 of the Code of Criminal Procedure was filed on 15.12.2022. Even otherwise, no material proceedings have taken place before the trial Court in between.

In view of the facts and circumstances stated hereinabove, the petitioner is directed to surrender before learned trial Court on or before the date fixed i.e. 19.01.2023, and shall move an application for grant of regular bail. In case of his doing so, it shall be appreciated, in case the trial Court decides the aforesaid application on the same day accepting his fresh bail bonds and surety bonds to its satisfaction.

Disposed of accordingly.

12.01.2023
tejwinder

(**HARKESH MANUJA**)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>

