

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

CRM-4140-2023

Date of decision: 27.01.2023

.....Petitioner

versus

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

NAMIT KUMAR, J. (ORAL)

CRM-4140-2023

This application has been filed under Section 482 Cr.P.C. for placing on record the copies of zimini orders in the present case as Annexure P-5 and for exemption from filing the certified/true typed copies of the same.

In view of the averments made in the application, the same is allowed and copies of zimini orders in the present case as Annexure P-5 is taken on record and the applicant is exempted from filing the certified/true typed copies of the same.

CRM stands disposed off.

CRM-M-2533-2023

Petitioner has filed this petition under Section 482 Code of Criminal Procedure seeking quashing of impugned order dated 19.07.2022 (Annexure P-3) passed by the learned Special Judge, Moga, whereby, while cancelling his bail, the bail bonds was also ordered to be forfeited and non-bailable warrants of arrest and notice to his surety have been issued on account of his absence for 01.09.2022. The impugned order arises from trial proceedings of case FIR No.265 dated 23.11.2019 (Annexure P-1)

registered under Sections 21/29 of the NDPS Act registered at Police Station City Moga District Moga.

Learned counsel for the petitioner contends that the petitioner was already on bail and thereafter, he kept on appearing before the trial Court regularly, however, on 19.07.2022, the petitioner was absent as he noted down the wrong date and the Court proceeded to cancel his bail and issued the non-bailable warrants for 01.09.2022. 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. Anup Singh, A.A.G., 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 19.07.2022 (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 19.07.2022 (Annexure P-3) is set aside subject to appearance of the

petitioner before the trial Court within a period of seven days from today and subject to payment of Rs.10,000/- as costs to be deposited with the Punjab and Haryana High Lawyers' Welfare Fund within a period of one month from the date of passing of this order. On his appearance, he shall be released on bail by the trial Court on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court. In the event of non-compliance of this order, the order dated 19.07.2022 (Annexure P-3) would remain intact.

The petition is disposed off in above terms.

27.01.2023
Neha

(NAMIT KUMAR)
JUDGE

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