

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

CRM-M-2914-2023

Date of decision: 20.01.2023

Pawan Kumar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. B.S. Aulakh, Advocate for
Mr. Tanvir Joshi, 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 11.11.2022 (Annexure P-3) passed by the Learned ADJ/MACT/AA/ASJ/JSC/BTI, 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 11.11.2022. The impugned order arises from trial proceedings of case FIR No.196 dated 28.10.2013 registered under Section 18 of NDPS Act, registered at Police Station Raman, District Bathinda.

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 21.10.2022 and 11.11.2022, the petitioner was absent as his mother was critically ill and the petitioner is the only male member to take care of his mother (medical certificate dated 25.12.2022 is annexed with the file as Annexure P-4). On 11.11.2022, he failed to contact the counsel as well and missed the proceedings and the Court proceeded to cancel his bail and issued the non-bailable warrants for 25.11.2022. 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. Jashanpreet Singh, DAG, 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 11.11.2022 (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 11.11.2022 (Annexure P-3) is set aside subject to appearance of the petitioner before the trial Court within a period of 07 days from today and subject to payment of Rs.5,000/- as costs to be deposited with the Punjab & Haryana High Court Lawyers' Welfare Fund. On his appearance, he shall be released on bail by the trial Court on his furnishing fresh bail bonds and surety bonds to its satisfaction. In the event of non-compliance of this order, the order dated 11.11.2022 would remain intact.

The petition is disposed off in above terms.

20.01.2023
ps-I

(NAMIT KUMAR)
JUDGE

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