

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

CRM-M-4680-2023

Date of decision: 30.01.2023

Money Sharma	versus	Petitioner
State of Punjab		Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Amit Sharma, Advocate
for the petitioner.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure seeking quashing of impugned order dated 11.11.2022 (Annexure P-3) 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 11.11.2022 and impugned order dated 20.01.2023 (Annexure P-4) vide which proclamation warrants under Section 82 of Cr.P.C. has been issued for 01.04.2023. The impugned orders arises from trial proceedings of case FIR No.34 dated 13.02.2021 registered under Section 379-B of IPC registered at Police Station Tibba, 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 11.11.2022, 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 20.01.2023. 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 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. On 11.11.2022; non bailable warrants were issued for 20.01.2023 and on the very same day, proclamation proceedings have been initiated by the learned Trial Court.

Considering the above sequence of events, the impugned order 11.11.2022 (Annexure P-3) and 20.01.2023 (Annexure P-4) are set aside subject to appearance of the petitioner before the trial Court within a period of seven days from today. On his appearance, he shall be released on bail by the trial Court on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court. In the event of non-compliance of this order, the order dated 11.11.2022 and 20.01.2023 would remain intact.

The petition is disposed off in above terms.

30.01.2023
Neha

(NAMIT KUMAR)
JUDGE

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