

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

CRM-M-6769-2023

Date of decision: 08.02.2023

GANARDAN SINGH ALIAS JANARDHAN ALIAS SHAKTI

...Petitioners

V/s

STATE OF HARYANA

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Divyam Singh, Advocate
 for the petitioner.

DEEPAK MANCHANDA J.

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 31.01.2023 passed by the Additional Sessions Judge, Narnaul in case bearing FIR No. 249 dated 16.09.2020 registered under Sections 379-B and 120-B of the Indian Penal Code at Police Station Nangal Chaudhary, District Mahendergarh.

Learned counsel for the petitioner contends that vide order dated 29.10.2020, the petitioner was granted the concession of regular bail who continued to attend the trial proceedings regularly. However, on 31.01.2023, he failed to appear before the trial Court on account of medical ailments (blood infection problem) and moved an application for exemption from personal appearance, but the same was dismissed by the trial Court and his bail bonds and surety bonds were forfeited to the State. However, his absence was unintentional and bona fide. Reasons for the same have been mentioned in para No. 5 of the present petition. The absence of the petitioner resulted into passing of the order dated 31.01.2023, whereby the learned trial Court proceeded to cancel his bail and issued the non-bailable warrants.

He further submits that the petitioner is ready and willing to join the trial proceedings.

Notice of motion.

At this stage, Mr. Bhupender Singh, DAG Haryana, who is present in the Court accepts notice on the asking of the Court and submits that the impugned order has been passed on the sole ground of absence of the petitioner, however, it is not disputed by him that the petitioner was on regular bail since 29.10.2020 and had been appearing before the trial Court.

A perusal of the order dated 31.01.2023(Annexure P-2) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary reason of absence of the petitioner.

Learned counsel for the petitioner submits that the said absence was unintentional and due to the reasons mentioned in para No. 5 of the petition.

Many a times, the accused can be prevented by sufficient reasons to put in appearance before the Court on a given date, which necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non-appearance and unintentional absence before the trial Court is accepted.

In view of the same, the order dated 31.01.2023(Annexure P-2) is set aside. The petitioner is directed to appear before the trial Court on 10.02.2023 and is allowed to remain on the same bail bonds and surety bonds.

In case, the petitioner does not appear before the trial Court on the given date, the order dated 31.01.2023 (Annexure P-1), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

08.02.2023
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No