

CRM-M-7538-2023

Date of decision: 14.02.2023

KaluPetitioner
versus
State of PunjabRespondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sandeep Sharma, 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 07.12.2022 (Annexure P-10) passed by the learned trial Court, 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 for 04.01.2023 on account of his absence on 07.12.2022. The impugned order arises from trial proceedings of case FIR No.41 dated 26.03.2022 registered under Section 379-B of IPC 1860 (offence under Sections 411/34 of IPC added later on) registered at Police Station Bhogpur, District Jalandhar Rural and further seeking quashing of impugned order dated 03.02.2023 (Annexure P-12) passed by the learned trial Court vide which fresh non-bailable warrants has been issued against the petitioner.

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 26.10.2022, the petitioner could not appear as he had wrongly noted down the date as 26.12.2022 and came to know about the said date only on 26.12.2022 and when he contacted his counsel, he came to know that on 07.12.2022; his bail has been cancelled and non bailable warrants have been issued. Therefore, the Court proceeded to cancel his bail and issued the non-bailable warrants for 04.01.2023. 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 puts in appearance and accepts notice on behalf of the respondent-State and submits that the impugned order has been passed on the ground of the absence of the petitioner on two dates, 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 07.12.2022 (Annexure P-10) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the absence of petitioner on two dates. 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 07.12.2022 (Annexure P-10) and order dated 03.02.2023 (Annexure P-12) are 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.7,500/- as costs to be deposited with the Punjab and Haryana High Court Lawyers' Welfare Fund within a period of four weeks 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 07.12.2022 would remain intact.

The petition is disposed off in above terms.

14.02.2023
Neha

(NAMIT KUMAR)
JUDGE

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