

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

112

CRM-M-7793-2023

Date of decision: 15.02.2023

Harpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

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

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for quashing of impugned order dated 12.07.2022 (Annexure P-6) and order dated 26.10.2022 (Annexure P-8) passed by the Ld. Judge Special Court in FIR No.30 dated 03.03.2016 under Section 22 of the NDPS Act, 1985 and Sections 379/411 of IPC, 1860 registered at Police Station Division-B, District Amritsar titled as State Vs. Kuldeep Singh etc. by which the bail order of the petitioner stands cancelled and his bail bonds and surety bonds were ordered to be forfeited to the State and the petitioner was declared proclaimed offender.

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 12.07.2022, the petitioner could not appear in

the Court due to communication gap with the counsel and the Court proceeded to cancel his bail and issued the non-bailable warrants for 22.08.2022 and notice to his surety was also issued for the date fixed. He submits that petitioner had moved an bail application and recalling application against the impugned order and the same stand dismissed vide order dated 14.11.2022 and 03.10.2022 respectively. He further submits that the case is now fixed before the trial Court for 24.04.2023 and 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 12.07.2022 (Annexure P-6) 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 12.07.2022 (Annexure P-6) is set aside subject to appearance of the petitioner before the trial Court within a period of one week **and subject to payment of Rs.15,000/- as costs to be deposited with the Bar Clerks**

Association, Punjab & Haryana High Court, Chandigarh. On his appearance, he shall be released on bail by the trial Court on his furnishing fresh bail bonds and surety bonds to the satisfaction of the trial Court. In the event of non-compliance of this order, the order dated 12.07.2022 and 26.10.2022 would remain intact.

The petition is disposed off in above terms.

(NAMIT KUMAR)
JUDGE

15.02.2023

Parveen Kumar

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