

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

CRM-M -8637-2023

Date of decision: 17.02.2023

GURBAJ SINGH @ BAZA

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Rubal Garg, 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 04.11.2022 (Annexure P-5) passed by the ADJ/MACT/AA/ASJ/JSC/BTI in case FIR No. 44 dated 22.03.2021 registered under Section 21, 61 and 85 of NDPS Act registered at Police Station Canal Colony, District Bathinda.

Learned counsel for the petitioner contends that vide order dated 27.04.2021, the petitioner was granted the concession of regular bail. On 04.11.2022, he failed to appear before the trial Court on account that though the petitioner communicated to his counsel for filing his exemption application but inadvertently the counsel filed exemption application of his co-accused namely Ranjodh Singh @ Jodha. Hence, his absence is unintentional and bona fide. Reasons for the same have been mentioned in para No. 6 of the present petition. The absence of the petitioner resulted into passing of the order dated 04.11.2022, 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. Mohit Kapoor, Addl. AG Punjab, 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 27.04.2021.

A perusal of the order dated 04.11.2022 (Annexure P-1) 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. 6 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 04.11.2022 (Annexure P-5) is set aside. The petitioner is directed to appear before the trial Court within a period of one week from today 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 04.11.2022 (Annexure P-5), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

17.02.2023
Ajay Goswami

Whether speaking/reasoned	Yes
Whether reportable	Yes/No