

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

CRM-M-10706-2023

Date of decision: 02.03.2023

DINESH AND ANR.

...Petitioners

V/s

STATE OF HARYANA

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Vishal Yadav, Advocate
 for the petitioners.

DEEPAK MANCHANDA J.

The petitioners have preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside/quashing the order dated 18.01.2023 (Annexure P-4) passed by the Additional Sessions Judge, Jhajjar in case FIR No. 311 dated 16.10.2021 under Section 341, 379-B, 395, 397 and 412 of the Indian Penal Code registered at Police Station Salhawas, District Jhajjar.

Learned counsel for the petitioners contends that vide order dated 18.11.2022 passed by this Court and order dated 07.07.2022 passed by Additional Sessions Judge, Jhajjar, the petitioners were granted the concession of regular bail who continued to attend the trial proceedings regularly. On 18.01.2023, however, the petitioners were present before the trial before lunch, but due to some mis-understanding the petitioners were under the impression that case has been adjourned to some other day and went to their homes after lunch and as the petitioners were not present after lunch, learned trial Court cancelled their bail bonds and surety bonds and forfeited those to the State. However, their absence was unintentional and bona fide. Reasons for the same have been mentioned in para No. 7 of the present petition. The absence of the petitioner resulted into passing of the impugned order dated 18.01.2023.

He further submits that the petitioners are 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 petitioners were on regular bail and had been appearing before the trial Court.

A perusal of the order dated 18.01.2023 (Annexure P-4) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary reason of absence of the petitioners.

Learned counsel for the petitioners submits that the said absence was unintentional and due to the reasons mentioned para No. 7 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 wilful absence. The explanation offered for non-appearance and unintentional absence before the trial Court is accepted.

Petition is allowed subject to payment of costs amounting to Rs. 30,000/- (Rs. 15,000/- to be paid by each petitioner) in the Punjab and Haryana High Court Employees Welfare Association Fund. The order dated 18.01.2023 (Annexure P-4) is set aside. The petitioners are directed to appear before the trial Court on 04.03.2023, the date already fixed before the trial Court and are allowed to remain on the same bail bonds and surety bonds subject to presentation of the receipt of costs mentioned hereinabove.

In case, the petitioners do not appear before the trial Court on the given date, the order dated 18.01.2023 (Annexure P-4), passed by the trial Court, shall remain intact.

(DEEPAK MANCHANDA)
JUDGE

02.03.2023
Ajay Goswami

Whether speaking/reasoned	Yes
Whether reportable	Yes/No