

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

CRM-M-10772-2023

Date of decision: 01.03.2023

BALWINDER SINGH @ JINDU

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Chandan Singh Rana, 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 04.07.2022 passed by the Additional Sessions Judge, Ludhiana in case FIR No. 271 dated 06.09.2018 under Sections 379 of the Indian Penal Code and Section 21 of the Mining and Minerals Act 1957 registered at Police Station Sidhwan Bet, District Ludhiana.

Learned counsel for the petitioner contends that vide order dated 26.09.2018, the petitioner was granted the concession of regular bail, who continued to attend the trial proceedings regularly. However, on 04.07.2022, he failed to appear before the trial Court because petitioner is a drug addict and forgot the next date of hearing before the trial Court and, thereafter, he was taken to JOT Drug Counseling & Rehabilitation Centre 23 KSD, Abohar Road, Gadderkhara, Tehsil Sadul Shahr (Rajasthan) by his family members, wherein he remained admitted from 25.11.2022 till 05.01.2023. Hence, his absence is 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 order dated 04.07.2022, 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. P.S. Grewal, DAG 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 26.09.2018.

A perusal of the order dated 04.07.2022 (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. However, on the same date, the petitioner had appeared before the trial Court, his presence was also marked, wherein the Additional Sessions Judge, Ludhiana, directed him to remain careful in future.

Learned counsel for the petitioner submits that 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.

The order dated 04.07.2022 (Annexure P-3) further reveals that the explanation offered by the petitioner was accepted, vide which petitioner appeared before the trial Court and was warned to be careful in future, therefore, the order dated 04.07.2022 (Annexure P-3) is set aside qua cancellation of bail bonds and its forfeiture and he is allowed to remain on the same bail bonds and surety bonds.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

01.03.2023
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No