

111 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12534-2023
Date of decision: 18.04.2023

BALVIR CHAND

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Ms. Arti Kaur, 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 05.09.2022 passed by the Additional Sessions Judge, SBS Nagar whereby non-bailable warrants have been issued against the petitioner in case FIR No. 02 dated dated 10.01.2022 registered under Section 22 of NDPS Act at Police Station City Banga, SBS Nagar.

Learned counsel for the petitioner contends that vide order dated 02.05.2022, the petitioner was granted the concession of regular bail who continued to attend the trial proceedings regularly. However, on 05.09.2022, he failed to appear before the trial Court on account of wrong noting of the next date of hearing in the Court as 25.09.2022 instead of 05.09.2022. Hence, his absence is unintentional and bona fide. Reasons for the same have been mentioned in para No. 10 of the present petition. The absence of the petitioner resulted into passing of the order dated 05.09.2022, 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 02.05.2022 and had been appearing before the trial Court.

A perusal of the order dated 05.09.2022 (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 petitioner.

Learned counsel for the petitioner submits that the said absence was unintentional and due to the reasons mentioned para No. 10 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 05.09.2022 (Annexure P-4) 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 05.09.2022 (Annexure P-4), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

18.04.2023

Ajay Goswami