

2023:PHHC:044150

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

CRM-M-12416-2023 (O&M)

Date of decision: 24.03.2023

GANESH DUTT

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Rahul Sharma, Advocate
 for the applicant/petitioner.

DEEPAK MANCHANDA J. (ORAL)

CRM-13460-2023

This is an application under Section 482 of Cr.P.C. seeking placing on record and exemption from filing the certified/typed/photocopy of zimni orders as Annexure P-6.

For the reasons mentioned in the application, same is allowed.

Annexure P-6 is taken on record.

Application disposed of.

CRM-M-12416-2023

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 24.11.2022 (Annexure P-2) passed by the Additional Sessions Judge, Ludhiana in case FIR No. 95 dated 10.05.2018 registered under Sections 21/61/85 of the NDPS Act at Police Station Samrala, District Ludhiana.

Learned counsel for the petitioner contends that the petitioner was granted the concession of bail since the beginning of the case, who continued to attend the trial proceedings regularly. However, on 24.11.2022, the petitioner requested the previous counsel engaged by the petitioner to file exemption

application on his behalf as he was unwell and was at rehabilitation Centre due to treatment of drug abuse and alcoholism, but the counsel did not file any exemption application. Hence, his absence was unintentional and bona fide. Reasons for the same have been mentioned in para No. 3 of the present petition. The absence of the petitioner resulted into passing of the order dated 24.11.2022, 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. 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 bail since the beginning of the case and had been appearing before the trial Court.

A perusal of the order dated 24.11.2022 (Annexure P-2) 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. 3 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 24.11.2022 (Annexure P-2) is set aside. The petitioner is directed to appear before the trial Court within a period of one week from the date of receipt of certified copy of this order and is allowed to remain on the same bail bonds and surety bonds.

In case, the petitioner does not appear before the trial Court within the stipulated period, the order dated 24.11.2022 (Annexure P-2), passed by the trial Court, shall remain intact.

Petition disposed of.

24.03.2023
Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No

(DEEPAK MANCHANDA)
JUDGE