

119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14842-2023

Date of decision: 23.03.2023

JAGSIR SINGH @ RAVI

...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 12.09.2022 (Annexure P-4) passed by the Additional Sessions Judge, Ludhiana in case FIR No. 46 dated 01.04.2020 registered under Section 15 of NDPS Act at Police Station Dakha Ludhiana.

Learned counsel for the petitioner contends that vide order dated 09.04.2020, the petitioner was granted the concession of regular bail who continued to attend the trial proceedings regularly. However, on 12.09.2022, he failed to appear before the trial Court. Learned counsel for the petitioner further contends that challan was filed by the Police in the absence of the petitioner without issuance of the notice before the competent Court on dated 18.08.2020 and thereafter the various zimni orders would show that petitioner had been appearing before the trial Court. It is further mentioned that counsel in the trial Court had informed the petitioner regarding as and when his presence would be required, he will inform the petitioner with regard to further proceedings. The petitioner is a layman, and believed his counsel, however he was not informed

regarding the pendency of the Court proceedings. Thereafter, the lock-down was imposed and Courts were functioning in a restricted manner due to Covid-19 and the petitioner remained under the impression that his counsel would inform about the further proceedings. Later on, petitioner came to know about the impugned order of cancelling his bail bonds. 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 12.09.2022, 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 09.04.2020 and had been appearing before the trial Court.

A perusal of the order dated 12.09.2022 (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. 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 willful absence. The explanation offered for

non-appearance and unintentional absence before the trial Court is accepted and even object of Section 82 of Cr.P.C. is also to secure the presence of the accused/petitioner.

In view of the same, the order dated 12.09.2022 (Annexure P-4) is set aside. The petitioner is directed to appear before the trial Court within a period of one week from 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 on the within the stipulated period, the order dated 12.09.2022 (Annexure P-4), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

23.03.2023
Ajay Goswami

Whether speaking/reasoned	Yes
Whether reportable	Yes/No