

2023:PHHC:072476

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25130-2023

Date of decision: 18.05.2023

TUNATUN SINGH

...Petitioner

V/s

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Anshul Sharma, Advocate for
 Mr. Gobind Singh Randhawa, 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 24.09.2021 (Annexure P-5) passed by the trial Court/Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar in case bearing FIR No. 73 dated 20.06.2017 registered under Sections 61/1/14 of Punjab Excise Act 1914, at Police Station Rahon, District Shaheed Bhagat Singh Nagar.

Learned counsel for the petitioner contends that vide order dated 17.07.2018 (Annexure P-2), the petitioner was granted the concession of bail who continued to attend the trial proceedings regularly. However, on 20.01.2020, he failed to appear before the trial Court on account of wrong noting of the next date of hearing and the trial Court had issued summon to the petitioner for appearance. Thereafter on 27.02.2020, trial Court recorded that summon issued to the petitioner not received back and again issued summons to the petitioner. Thereafter, due to Covid-19 pandemic, the matter was taken up moreover, the petitioner had gone back to Bihar to look after for his old aged mother, during the Covid crises, and the trial Court proceeded to cancel the bail and surety bonds of the petitioner and forfeited them to the State and issued

non-bailable warrants against the petitioner vide order dated 24.09.2021. Hence, his absence is unintentional and bona fide. Reasons for the same have been mentioned in para Nos. 7 to 9 of the present petition. The absence of the petitioner resulted into passing of the order dated 24.09.2021, 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 17.07.2018 and had been appearing before the trial Court.

A perusal of the order dated 24.09.2021 (Annexure P-5) 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 Nos. 7 to 9 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 24.09.2021 (Annexure P-5) is set aside. The petitioner is directed to appear before the trial Court on or before 25.05.2023 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 24.09.2021 (Annexure P-5), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

18.05.2023

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No