

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-34050-2023 (O&M)

Date of decision: 17.07.2023

Rameet Singh

....Petitioner

versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Umesh Aggarwal, Advocate for petitioner.

Mr. Dhruv Dayal, Additional A.G., Punjab.

ARUN MONGA, J. (ORAL)

Petition herein is for quashing of an order dated 03.06.2023 (Annexure P-1), whereby learned Judicial Magistrate First Class, Amritsar cancelled the interim bail order of the petitioner and bail bonds were forfeited in the complaint proceedings filed under Section 138 of Negotiable Instruments Act and arrest warrants were issued against him.

2. Notice of motion.

3. On the asking of Court, Mr. Dhruv Dayal, Additional A.G., Punjab accepts notice and opposes the petition.

4. Succinct facts first, as pleaded in the instant petition.

4.1. Respondent filed one complaint under Section 138 of Negotiable Instruments Act against the petitioner. Petitioner was arrayed as an accused. He was granted the concession of interim bail vide order dated 22.11.2022. After getting bail from the learned Court below, petitioner started appearing. Petitioner appeared in court on 15.04.2023 and matter was adjourned for 27.04.2023 but petitioner wrongly noted the next date of hearing as 27.07.2023. However the matter was taken up on 27.04.2023, none appeared for either side and notice was issued to the parties for 03.06.2023. However, on 03.06.2023, when the case was

called out, petitioner was not present before learned Judicial Magistrate First Class, Amritsar and warrants of arrest were ordered to be issued against the petitioner and bail of petitioner was also cancelled. On 05.06.2023, petitioner went to his counsel for some other work regarding mutation, petitioner was informed by his counsel that his bail order has been cancelled and non-bailable warrants have been issued. As such petitioner filed an application for anticipatory bail, the same was declined vide order dated 11.07.2023, being not maintainable. Hence, the instant petition.

5. Learned counsel for petitioner states that absence is not deliberate and is due to sheer inadvertence. His past non-appearance in trial seemed to have weighed with trial court, counsel contends. Notice was though issued to the petitioner, but he remained unserved. Non-appearance of petitioner was thus neither intentional nor willful.

6. On the other hand, learned State counsel submits that learned trial Court rightly cancelled the bail of petitioner since he deliberately chose not to appear on the date fixed and violated the terms of bail bonds.

7. Heard.

8. No doubt, learned trial Court has got discretion to cancel the bail, however, it is well settled that before passing such an order, Court is required to effect service on the accused so as to afford him an opportunity to explain as to why the bail should not be cancelled. Such course has not been adopted by learned Judicial Magistrate First Class, Amritsar in the instant case. On this ground alone, impugned order to the extent of cancellation of bail deserves to be set aside.

8.1. Moreover, cancellation of bail is a serious matter and can have significant impact on the life of a person. Matters of personal liberty ought not to be taken so lightly and in such mechanical manner as in the case herein.

9. In the premise, impugned order is set aside. Earlier bail order stands revived on bail bond and surety bond already furnished by petitioner before

learned trial Court. Petitioner is directed to join proceedings before learned trial Court within three weeks from today and shall continue to appear before learned trial Court without default.

- 10. Petition is accordingly allowed.
- 11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

17.07.2023

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No