

Malkeet Pal @ Pallo

...Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**Present:** Mr. Himanshu Puri, Advocate
for the petitioner.

Mr. Jashanpreet Singh, DAG, Punjab.

NAMIT KUMAR, J. (ORAL)

Petitioner has filed this petition under Section 482 Code of Criminal Procedure for quashing of impugned order dated 17.08.2022 (Annexure P-3) passed by the Ld. Judge, Special Court, Kapurthala whereby cancelling his bail, the bail bonds and surety bonds were also ordered to be forfeited and non-bailable warrants of arrest have been issued on account of his absence on 17.08.2022. The impugned order arises from trial proceedings of case FIR No.133 dated 24.11.2021 registered under Sections 21(b)/29 of NDPS Act, 1985 registered at Police Station Fattudhinga, District Kapurthala.

Learned counsel for the petitioner contends that the petitioner was already on anticipatory bail and thereafter, he kept on appearing before the trial Court regularly, however, on 17.08.2022, the petitioner was absent as he was not informed by the counsel or by the Investigating Officer about the presentation of challan and the Court proceeded to cancel his bail and issued the non-bailable warrants for 06.01.2023. He further submits that the petitioner is ready and willing to join the trial proceedings and undertakes to be present in Court on each and every date.

Notice of motion.

At this stage, Mr. Jashanpreet Singh, DAG, Punjab, accepts notice on behalf of the respondent-State and submits that the impugned order has been passed on the ground of the absence of the petitioner on two occasions, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

A perusal of the order dated 17.08.2022 (Annexure P-3) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the absence of petitioner on two occasions. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non appearance before the trial Court is justified and therefore, the same is accepted.

Considering the above sequence of events, the impugned order 17.08.2022 (Annexure P-3) is set aside subject to appearance of the petitioner before the trial Court within a period of 1 week from today **and subject to payment of Rs.10,000/- as costs to be deposited with the Punjab & Haryana High Court Lawyers Welfare Fund within a period of one month.** On his appearance, he shall be released on bail by the trial Court on his furnishing fresh bail bonds and surety bonds to its satisfaction. In the event of non-compliance of this order, the order dated 17.08.2022 would remain intact.

The petition is disposed off in above terms.

28.02.2023

Parveen kumar

**(NAMIT KUMAR)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No