

116 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51199-2022 (O&M)

Date of decision: 26.04.2023

SANDEEP SINGH ALIAS SONU

...Petitioners

V/s

STATE OF PUNJAB

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Sarvesh Kumar Gupta, Advocate
for Mr. Parveen Chauhan, Advocate
for the petitioners.

DEEPAK MANCHANDA J. (ORAL)

CRM-13243-2023

This is an application under Section 482 of Cr.P.C. seeking placing on record the final report under Section 173 Cr.P.C. as Annexure A-1. For the reasons mentioned in the application, same is allowed and Annexure A-1 is taken on record.

CRM stands disposed of.

CRM-M-51199-2022

The petitioner has preferred this petition under Section 482 of the Code of Criminal Procedure for setting aside the order dated 05.08.2022 (Annexure P-3) passed by the Additional Sessions Judge, Tarn Taran in case FIR No. 27 dated 21.02.2019 registered under Section 22 of NDPS Act at Police Station City Patri District Tarn Taran.

Learned counsel appearing for the petitioner contends that vide order dated 09.04.2019, the petitioner was granted the concession of regular bail who continued to attend the trial proceedings regularly. However, on 05.08.2022, he failed to appear before the trial Court on account of being unwell. Learned

counsel further contends that petitioner sent his mother with an application for exemption from his personal appearance but learned trial Court rejected his application and cancelled his bail bond bonds. Hence, his absence is unintentional and bona fide. Reasons for the same have been mentioned in para No. 4 of the present petition. The absence of the petitioner resulted into passing of the order dated 05.08.2022, 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 09.04.2019 and had been appearing before the trial Court.

A perusal of the order dated 05.08.2022 (Annexure P-3) 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. 4 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 05.08.2022 (Annexure P-3) 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 05.08.2022 (Annexure P-3), passed by the trial Court, shall remain intact.

Petition disposed of.

(DEEPAK MANCHANDA)
JUDGE

26.04.2023

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes
Yes/No