

CRM-M-58387-2023
Date of decision: 20.11.2023

Versus

State of U.T. Chandigarh ..Respondent

Present: Mr. Jatinder Kumar Kamboj, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for setting aside the impugned order dated 26.09.2023 in a case bearing FIR No.372 dated 30.09.2018 (Annexure P-1) under Sections 209/304-A of IPC registered at Police Station Sector 31, Chandigarh.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that the petitioner was on bail and he was appearing regularly. On 11.08.2023, he filed an application for exemption from personal appearance which was allowed and the case was fixed for 26.09.2023. On 26.09.2023, the accused/petitioner could not appear before the learned trial Court as he went to his native village in Yamunanagar after the demise of his father due to which the bail bonds and bail order of the accused/petitioner were cancelled and non-bailable warrants were issued against him for 08.11.2023. Aggrieved by the said impugned order dated 26.09.2023 (Annexure P-4), the petitioner has approached this Court by way of instant petition.

3. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

4. Notice of motion.

5. Mr. Rajeev Anand, Addl.P.P., for the respondent-U.T. Chandigarh, who is present in Court, accepts notice for the respondent and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

6. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

7. A perusal of the order dated 26.09.2023 (Annexure P-4) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. 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 wilful absence. The explanation offered for non appearance before the trial Court is justified and, therefore, the same is accepted.

8. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

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9. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

10. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 26.09.2023 (Annexure P-4), vide which the bail bonds and bail order of the petitioner was cancelled, is hereby set aside.

11. The petitioner is directed to appear before the trial Court within a period of 15 days from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Chandigarh, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

20.11.2023
Neha

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