

CRM-M-58271-2023
Date of decision: 23.11.2023

Versus

State of Punjab ...Respondent

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

2. Brief facts of the case are that police party headed by ASI Jaswinder Pal while patrolling in a private car on 04.09.2019 apprehended the petitioner on suspicion and recovered 7 kg of poppy husk from a bag allegedly carried by the petitioner and arrested him, thereafter, the petitioner was granted regular bail on 23.09.2019 (Annexure P-2). It is further alleged that the challan was presented in the Court on 04.06.2020 (Annexure P-3) in the

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absence of the accused as due to the COVID-19 pandemic, the Courts were functioning in a restricted manner. Thereafter, charges were framed on 16.08.2022 (Annexure P-4).

3. Learned counsel appearing for the petitioner, *inter alia*, contends that the petitioner was undergoing treatment for de-addiction and depression at Dr. Sarabjit Neuro Psychiatric Hospital and Centre for De-addiction, Jalandhar, the proof of which, the letter issued by the said hospital is annexed with the petition as Annexure P-5. He further submits that on account of medical issues, the petitioner could not appear before the learned trial Court on 11.05.2023 and due to non-appearance of the petitioner, the learned trial Court has cancelled his bail orders, bail bonds and surety bonds and forfeited them to the State. The petitioner has been summoned through non-bailable warrants of arrest for 11.10.2023 and notice under Section 446 to his surety was also issued for the date fixed. Aggrieved by the said impugned order dated 11.05.2023 (Annexure P-7), the petitioner has approached this Court by way of instant petition.

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

5. Notice of motion.

6. Ms. Navreet Kaur Barnala, AAG, Punjab 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 her that petitioner was already on bail and had been appearing before the trial Court.

7. 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.

8. A perusal of the order dated 11.05.2023 (Annexure P-7) 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.

9. 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.

10. The sole purpose of issuance of non-bailable warrants or issuance of proclamation 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.

11. In view of the aforesaid facts and circumstances, the present petition is allowed and the impugned order dated 11.05.2023 (Annexure P-7) vide which the bail order, bail bonds and surety bonds of the petitioner were cancelled and non-bailable warrants were issued against the petitioner, is set aside.

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12. The petitioner is directed to appear before the trial Court on the date already fixed i.e. 25.01.2024 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, Kapurthala, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

23.11.2023
Neha

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