

CRM-M-322-2024
Date of decision: 08.01.2024

Palwinder Singh Bhullar alias RahulPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Hakikat Grewal, Advocate for
Mr. Yajur Sharma, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing the impugned order dated 06.10.2023 (Annexure P-5) passed by the learned trial Court, vide which the bail order has been cancelled and bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State followed by issuance of non-bailable warrants in a case bearing FIR No.224 dated 14.07.2022 (Annexure P-1) under Section 22 of the NDPS Act registered at Police Station B-Division, District Amritsar.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on interim regular bail and was regularly appearing before the learned trial Court and on 01.09.2023, he noted down the wrong date i.e. 06.11.2023 instead of 06.10.2023 and also communicated the same to his counsel due to which neither the counsel nor the petitioner could appear before the learned trial Court on that day. On 06.10.2023, due to non-appearance of

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the accused/petitioner, his bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants along with notice to his surety were issued. On 06.11.2023, when the petitioner reached Court, he was informed that the last date of his case was 06.10.2023 and on that day, due to his non-appearance before the learned trial Court, his bail bonds and surety bonds were cancelled and non-bailable warrants were issued. Further the petitioner has moved an application seeking anticipatory bail before the learned trial Court and the same was dismissed being non-maintainable vide order dated 07.12.2023 (Annexure P-6) with liberty to challenge the same either under Section 70 (2) of Cr.P.C. of before this Court. He further challenged the above said order (Annexure P-6) under Section 70 (2) of Cr.P.C. and the same was also dismissed by the learned trial Court vide order dated 22.12.2023 (Annexure P-7).

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of the petitioner due to his act of noting down the date wrongly.

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

5. Notice of motion.

6. Mr. Subhash Godara, Addl.A.G., Punjab who is present in Court, accepts notice for the respondent and submits that the impugned order has been

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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.

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 06.10.2023 (Annexure P-5) 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 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.

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11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 06.10.2023 (Annexure P-5), vide which the bail bonds and bail order of the petitioner was cancelled and non-bailable warrants were issued, is hereby set aside.

12. 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, Amritsar, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

08.01.2024
Neha

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