

Harmanjit SinghPetitioner

State of Punjab ...Respondent

Present: Mr. G.S. Bhatia, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on bail and was regularly appearing before the learned trial Court. It is further submitted that the petitioner was suffering from high fever, vomiting and headache and was advised complete bed rest for three days from 15.11.2023 due to which, he could not appear before the learned trial Court on 16.11.2023 and on account of his absence, his bail order was cancelled

and bail bonds/surety bonds were forfeited to the State and warrants of arrest

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were issued against him for 11.01.2024. Aggrieved by the said impugned order dated 16.11.2023 (Annexure P-13), 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. Subhash Godara, Addl.A.G., 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 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 16.11.2023 (Annexure P-13) 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.

9. The sole purpose of issuance of warrants of arrest 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 16.11.2023 (Annexure P-13), vide which bail order of the petitioner was cancelled, his bail bonds/surety bonds were forfeited to the State and warrants of arrest were issued against him, 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, Amritsar, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

12.01.2024
Neha

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