

CRM-M-2991-2024
Date of decision: 20.01.2024

Rajinder Kumar alias KalaPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sukhwinder S. Dhillon, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

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 23.09.2022 (Annexure P-2) passed by the learned Civil Judge, Junior Division-JMIC, Malout, District Sri Muktsar Sahib, 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 of arrest in case bearing FIR No.115 dated 15.06.2018 under Sections 21/61/85 of the NDPS Act registered at Police Station Lambi, District Sri Muktsar Sahib (Annexure P-1).

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and during pendency of the present FIR, one more FIR No.157 dated 02.07.2022 under Section 22-B of the NDPS Act, was registered against the petitioner and he was arrested on the spot by the police officials and sent to judicial custody. On 23.09.2022, the petitioner could not appear before the learned trial Court as he was in custody in other case till 29.11.2022 and due to his absence, his bail bonds/surety bonds were cancelled

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and forfeited to the State and non-bailable warrants were issued for 01.11.2022.

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 as he was in custody in some other case.

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

5. Notice of motion.

6. Mr. Sandeep Kumar, DAG, 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.

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 23.09.2022 (Annexure P-2) 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.
11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 23.09.2022 (Annexure P-2), vide which the bail order of the petitioner was cancelled and his bail bonds/surety bonds were cancelled and forfeited to the State 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, Sri Muktsar Sahib, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

20.01.2024

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