

CRM-M-10763-2024
Date of decision: 29.02.2024

Satnam Singh alias SattiPetitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. P.K.S. Phoolka, Advocate
for the petitioner.

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

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing/setting aside the impugned order dated 18.10.2023 (Annexure P-1) passed by the learned trial Court, whereby, on account of receipt of report regarding non-bailable warrants issued to the accused/petitioner 'unexecuted,' 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 proclamation for 04.12.2023 in case bearing FIR No.216 dated 02.11.2020 under Sections 61/1/14 of Excise Act, 1914 registered at Police Station Nathana, District Bathinda.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and was regularly appearing before the trial Court, however, on 30.05.2022, he could not appear before the learned trial Court, on account of which, notice through I.O. was issued to the petitioner and later on, bailable warrants and non-bailable warrants were issued against him.

He further submits that the petitioner was under impression that the case has been disposed of and he has been acquitted and as such, he could not appear before the learned trial Court as he was totally unaware about the proceedings as well as he along with his family, was temporarily residing on a brick kiln for labour work at Village Dhaula, Tehsil Gidderbaha, District Sri Muktsar Sahib four years ago. It is further submitted that due to his non-appearance, his bail bonds/surety bonds were cancelled and forfeited to the State and proclamation proceedings were initiated against him.

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.

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 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 18.10.2023 (Annexure P-1) 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 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, without issuing notice to the respondent No.2 in order to save time of the Court and to avoid litigation expenses to be incurred on the part of respondent No.2, the impugned order dated 18.10.2023 (Annexure P-1), vide which the bail bonds and bail order of the petitioner was cancelled and proclamation was issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of two weeks 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.5,000/- to be deposited with the District Legal Services Authority, Bathinda, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

29.02.2024
Neha

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