

112

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-31075-2024 (O&M)
Date of decision: 03.07.2024

Abishek Kumar @ Rohit

... Petitioner

Vs.

U.T. of Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Fury Jain, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') for quashing of order dated 01.04.2024 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Chandigarh, in case bearing No.PCH/4718/2021 (CNR No.CHCH030071032021), vide which bail of the petitioner was cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants were issued.

2. Learned counsel for the petitioner, *inter alia*, contends that the



petitioner was on bail and was regularly appearing before the learned trial Court. On 01.04.2024, due to his illness, the petitioner could not appear before learned trial Court and due to his non-appearance, vide order dated 01.04.2024, learned trial Court cancelled his bail and bail/surety bonds were forfeited to the State and non-bailable warrants were issued against the petitioner and notice to the surety was also issued.

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 ill-health.

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

5. Notice of motion.

6. Mr. Manish Bansal, Public Prosecutor, U.T. Chandigarh, assisted by Mr. Navjit Singh 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,



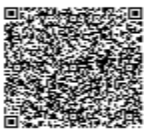
the matter is taken up for final disposal.

8. A perusal of the order dated 01.04.2024 (Annexure P-3) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence. 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 willful 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 01.04.2024 (Annexure P-3),



vide which bail of the petitioner has been cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants were issued against the petitioner and notice to surety has also been issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of four weeks from today and on his doing so, he shall be admitted to bail on his furnishing bail/surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- as costs to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

[HARPREET SINGH BRAR]
JUDGE

03.07.2024
vishnu

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