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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50149-2024 (O&M)
Date of decision: 10.10.2024

Parvez @ Parvej

... Petitioner

Vs.

State of Haryana

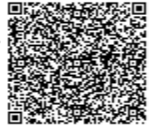
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Munfaid Khan, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail
to the petitioner in case bearing FIR No.168 dated 01.10.2023 under Sections
376, 450, 506, 34 of the Indian Penal Code, 1860 (for short 'IPC'), registered
at Police Station Bichhor, District Nuh.
2. Learned counsel for the petitioner, *inter alia*, contends that the
petitioner was granted the concession of regular bail by this Court vide order



dated 13.08.2024 passed in CRM-M-38287-2024 and thereafter, he was released on bail by learned trial Court on 16.08.2024 and was regularly appearing before learned trial Court, but due to the fact that wrong date was intimated to the petitioner by his counsel as 27.09.2024 instead of 24.09.2024, therefore, the petitioner could not appear before learned trial Court on 24.09.2024 and due to his non-appearance, vide order dated 24.09.2024, learned Presiding Officer, Children Court, Nuh cancelled his bail bonds/surety bonds and forfeited to the State and non-bailable warrants along with notice to his surety were issued, for 14.10.2024.

3. Learned counsel for the petitioner submits that non-appearance of the petitioner was not deliberate and intentional due to miscommunication and act of noting down the date wrongly and thus, he has approached this Court by way of filing the instant petition.

4. Notice of motion.

5. On asking of the Court, Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice for the respondent-State and submits that bail of the petitioner has been cancelled for his sole absence, however, it is not disputed by him that petitioner was already on bail and had been appearing before learned 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 24.09.2024 (Annexure P-3) reflects that learned trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of the 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 willful absence. The explanation offered for non-appearance before learned 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 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.

10. In view of the aforesaid facts and circumstances, present



petition is allowed. The petitioner is granted the concession of anticipatory bail subject to the conditions envisaged under Section 438 (2) of the Code of Criminal Procedure, 1973 (*now Section 482(2) of BNSS*).

11. The petitioner is directed to appear before learned trial Court within a period of two weeks from today and on his doing so, he shall be admitted to bail on his furnishing fresh bail/surety bonds to the satisfaction of learned trial Court.

12. However, this will subject to deposit of costs of Rs.5,000/- with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

13. The receipt of payment of costs imposed upon the petitioner must be presented before learned trial Court. Learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

[HARPREET SINGH BRAR]
JUDGE

10.10.2024
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No