

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-8335 of 2018
Date of Decision: 01.08.2018

Harvinder Singh @ Babla

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr.H.P.S.Ishar, Advocate
for the petitioner.

Mr.Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of the impugned order dated 15.02.2018 passed by the Special Court, Sangrur (Annexure P-3) in case FIR No.40 dated 20.05.2017 under Section 15 of the NDPS Act registered at Police Station Sadar Sangrur, District Sangrur.

Learned counsel for the petitioner has argued that the bail and surety bonds of the petitioner-accused were cancelled and forfeited to the State for the reason that on 15.02.2018, the petitioner was not present before the Special Court, Sangrur. He has submitted that on 15.02.2018, the petitioner was required to appear before the Special Court, Patiala in another case as well. Therefore, he could not appear before the Special Court, Sangrur. Accordingly, petitioner had moved an application seeking exemption from his personal appearance on 15.02.2018, but the Special Court, Sangrur, had dismissed the application seeking exemption on the ground that there was no affidavit annexed with the application.

Since on the relevant date, the petitioner was required to appear in two different Courts, and in the Patiala Court the case of the petitioner-accused was at an advance stage, therefore, the petitioner

appeared before the Patiala Court in preference to Sangrur Court. The absence of the petitioner before the Sangrur Court was therefore inevitable.

On the other hand, learned State counsel, on instructions from ASI-Karanjit Singh, does not dispute the fact that the petitioner is involved in two different FIRs i.e. at Sangur and Patiala and that his application for exemption from personal appearance was dismissed by the Special Court, Sangrur for the reason that there was no affidavit annexed with the application. Consequently, the bail and surety bonds of the petitioner-accused were cancelled and forfeited to the State.

I have heard learned counsel for the parties.

During the course of arguments, learned counsel for the petitioner has produced a photocopy of the judgment passed by the Special Court, Patiala in case FIR No.73 dated 18.06.2014 for offence under Section 15 of the NDPS Act, registered at Police Station Urban Estate, Patiala, wherein, the petitioner was acquitted. This substantiate the argument of the petitioner that case in Patiala Court was at advance stage.

The State has not disputed the fact that on 15.02.2018 the petitioner was facing trial in two different cases and it was humanly not possible for the petitioner to appear at both places simultaneously.

Accordingly, I find that there was a justified reason for the petitioner not to put in appearance before the Sangrur Court. Therefore, order dated 15.02.2018 passed by the Special Court, Sangrur (Annexure P-3) is hereby quashed.

The petition is disposed of.

August 01, 2018
Anjal

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No