

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

CRM-M-41470-2019

Date of Decision: 17.10.2019

Sonu Gill @ Rocky Gill

...Petitioner

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sandeep Arora, Advocate for the petitioner.
Mr. SPS Tinna, Addl. Advocate General, Punjab.

ANIL KSHETARPAL, J.

On 26.09.2019, following order was passed by this Court:-

“Petitioner prays for grant of pre-arrest bail in FIR No.195, dated 16.12.2018, registered under Section 21 of the NDPS Act, at Police Station Bhogpur, District Jalandhar Rural.

Learned counsel for the petitioner contends that on 20.03.2019, petitioner was granted interim bail, operative part whereof is extracted as under:-

“Accordingly, accused is granted interim bail on furnishing of bail/surety bonds to the tune of Rs.50,000/- with one surety in the like amount. In case contraband allegedly recovered from the possession of the accused found to be fallen in non commercial quantity, the interim order shall be confirmed automatically and bail bonds and surety bonds furnishing by the applicant accused as per the interim bail order shall be ordered to be treated as bail bonds and surety bonds against the final order. The accused/applicant is further directed to surrender in the Court in case contraband allegedly recovered from his possession falls in commercial quantity on receipt of report of the Chemical

Examiner. Accordingly, present bail application is disposed of. File of bail application be attached with the main file.”

He further contends that before 20.03.2019, final report under Section 173 Cr.P.C. was filed in the Court as would be clear from order dated 26.02.2019, Annexure P-2. Thereafter, there are 3 zimni orders passed by the Court on 07.03.2019, 25.03.2019 and 08.04.2019 to the same effect that the accused had not been produced despite production warrants.

On 07.03.2019, the Court records the following order:-

“Accused has not been produced. Let production warrants of accused be issued for 25.03.2019.”

On 23.04.2019, the Court records the following order:-

“None has appeared on behalf of accused. In the interest of justice, notice to accused be issued for 21.05.2019.”

On the next date i.e. 21.05.2019, the Court records the following order:-

“Notice to accused has been received back with the report unserved. In the interest of justice, fresh notice to accused be issued for 31.07.2019.

Thereafter, suddenly on 31.07.2019, the Court of learned Additional Sessions Judge, Jalandhar, passes the following order:-

“Accused Sonu Gill @ Rocky did not come present despite repeated calls since morning. It is already 3.00 p.m.. No further waits is justified. As such his bail order & bail bonds stands cancelled and forfeited to the State. Non-bailable warrants of the accused Sonu Gill @ Rocky and notice to his surety be also issued for 24.09.2019.”

Learned counsel for the petitioner contends that the notice as ordered to be issued on 21.05.2019 was never served on the petitioner. He submits that the Court passed the order without being alive to the previous orders passed. He further

submits that given an opportunity, the petitioner is ready to appear before the Court within 10 days.

If the petitioner appears before the Special Court within 10 days, the bail bonds which have already been furnished by the petitioner pursuant to the order dated 20.03.2019 would enure to his benefit and the petitioner shall not be arrested.

Learned Presiding Judge of the Court is also requested to forward her comments.

Registrar General of this Court is directed to communicate this order to the Presiding Judge of the Court.

Adjourned to 15.10.2019.”

Learned counsel for the petitioner submits that pursuant to the direction issued, the petitioner had surrendered before the trial court and had been released on bail.

On the other hand, learned counsel for the State, on instructions from ASI Inderjit Singh, submits that as per his information, the petitioner has not surrendered.

Keeping in view the facts of the case, the present petition is disposed of with the observations that if the petitioner has already surrendered before the learned trial court and released on bail, the interim bail granted shall be deemed to have been confirmed and if the facts are otherwise, the present petition shall stand dismissed.

17.10.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No