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

CRM-M-44643-2021 (O&M)

Date of decision:01.11.2021

Sukhjinder Singh alias Jodha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr.Arshdeep Singh Brar, Advocate for the petitioner.

Mr.Bhupender Beniwal, AAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

FIR No.110 dated 16.05.2018, came to be lodged under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City South, Moga District Moga naming therein the bail applicant, as, an accused.

Consequent to the lodging, of the the afore FIR, the accused became arrested by the investigating officer concerned. Therefore, he applied for bail before learned Court concerned. The learned Court concerned, through an order dated 29.08.2018, granted interim regular bail to the bail applicant. However, after receipt of the FSL concerned, detailing therein, that the weight of the relevant narcotic substance as became recovered, from the alleged conscious and exclusive possession of accused, rather carries an intermediate weight, thereupon, through an order made 11.09.2018, the order previously made on 29.08.2018, was made absolute.

However, subsequently, and after framing of charges against the accused, and, upon opening of prosecution evidence, the accused, did not, without any affirmative order, being made on his application, seeking his exemption from personal appearance, hence appear before the trial Court

concerned. Consequently, the trial Judge through an order dated 02.11.2018, suo motu ordered for cancellation of the bail order, and, also suo motu proceeded to forfeit the personal surety bonds as furnished by the bail applicant, and, obviously proceeded to draw proceedings, under Section 446 of the Cr.P.C. against the bail applicant. Moreover, through the afore order, the bail applicant was ordered to be produced through non-bailable warrants returnable for 10.12.2018. It appears that the afore non-bailable warrants remained unexecuted upon the bail applicant and hence, the learned trial Court, through an order made on 03.02.2021, proceeded to draw proceedings under Section 83 of the Cr.P.C. In the afore order, he was also declared a proclaimed offender. Subsequently, the bail applicant was arrested hence after 5 months, and was produced before trial Court concerned.

The bail applicant becomes aggrieved, and, hence challenges the orders (supra) made by the learned trial Judge. The learned counsel for the bail applicant, makes an oral challenge, to the afore affirmative orders, as become made upon him. He submits that owing to pressing constraints, the bail applicant accused could not personally appear before the learned trial Court. Even though, the afore oral submission appertaining to personal constraints, hence besetting the bail applicant, and, rather, precluding him from appearing before trial Court, are not supported by any valid and cogent material on record. Moreover, when the bail applicant accused has failed to, as submitted by Mr. Bhupender Beniwal, learned AAG, Punjab, appearing on behalf of State of Punjab, make his appearances before the learned trial Court, thereupon, prima facie this Court may not be inclined to proceed to set him at liberty, as thereupon, prima facie, there is every likelihood of his fleeing from justice or re-absconding.

Nonetheless, given the assurance made at the bar by the learned counsel for the bail applicant, that he shall regularly appear, before the learned trial Court, unless an affirmative order is made on his application seeking his exemption from personal appearance, thereupon, this Court does not deem it fit to interfere with his personal liberty.

Consequently, the bail applicant is ordered to be released, from judicial custody, whereat he is presently lodged. However, subject to his furnishing personal and surety bonds to the sum of Rs.50,000/- each to the satisfaction of the learned Magistrate concerned, and, subject to his making an undertaking before the learned Magistrate, that he shall regularly make his personal appearance before the Court, unless an affirmative order is made on his application, seeking exemption from his personal appearance. In case he omits to abide by any of the conditions supra, thereupon he shall be barred from re-approaching or re-accessing any Courts of law, for his being set at liberty. Moreover, the bail applicant is stated by learned State counsel, to be regularly indulging in commission of penal offences, thereupon, it is also ordered that the bail applicant shall furnish an undertaking that he shall not re-indulge in any criminal activity, and, in case he re-indulges, in criminal activities, thereupon he shall not be availing the process of seeking either anticipatory or regular bail, from the Courts concerned.

Disposed of.

(SURESHWAR THAKUR)
JUDGE

01.11.2021

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Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No