

In the High Court of Punjab and Haryana at Chandigarh

**CRM-M No. 45281 of 2021
Date of Decision: 29.10.2021**

Lakhwinder Singh @ Lucky Kang

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. S.S.Deol, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

FIR bearing No. 15 of 9.3.2018, constituted therein offences embodied under Sections 21 and 29 of the NDPS Act, is registered at Police Station Maqboolpura, District Amritsar.

In pursuance to the lodging before the FIR, the bail applicant made an application under Section 438 Cr.P.C. before the learned Judge, Special Court, Amritsar. The afore made application was dismissed by the Court concerned through an order made therein on 11.10.2021.

Subsequently, the bail applicant/accused preferred another application under Section 439 Cr.P.C. before the learned Additional Sessions Judge, Amritsar. The Court (supra), through an order, made therein on 29.10.2018, made an affirmative order upon the application (supra).

However, subsequently, the learned Special Judge, concerned

through an order made on 06.10.2021, for want of appearance before him of the bail applicant(supra), proceeded to *suo moto* cancel the personal and surety bonds, as furnished before the learned trial Court, concerned, by bail applicant-accused Lakhwinder Singh. Furthermore, he also ordered for issuance of warrants for arresting the bail applicant-accused.

It appears that through the order, as carried at page 3, the order made by the learned Additional Sessions Judge, Amritsar, and, as carried in Annexure P-2, and, wherethrough regular bail was granted to the bail applicant upon his application under Section 439 Cr.P.C., hence became annulled.

The cancellation of bail order (supra), as made by the learned Additional Sessions Judge, was amenable for being annulled only if the prosecution had endeavoured, to prefer an application, hence making clear, cogent, and candid recitals that the bail applicant-accused, had breached the terms and conditions, of the order made by the learned Court concerned, hence, granting bail to him. The afore made endeavour was clearly not resorted by the prosecution, before the learned Special Judge, concerned, nor also prior to the impugned order, being made by the learned Special Court, the latter did not either proceed to procure the presence of the bail applicant-accused either throughailable warrants or non-ailable warrants, nor also any show cause notice become issued upon the bail applicant. The effect of the afore is that the order impugned before this Court, and, as carried in Annexure P-3, is completely vitiated.

Moreover, pre eminently, since the bail applicant-accused, in his application, has made a valid cogent ground, for his failing to record his personal appearance before the learned Court concerned, thereupon, too,

this Court is constrained to annul Annexure P-3.

Accordingly, this Court proceeds, to allow the instant application, and to direct that the bail applicant-accused shall, promptly furnish personal and surety bonds in the sum of Rs. 50,000/- each, to the satisfaction of the trial Judge, concerned. He shall also make an undertaking that he shall, as and when asked to personally appear before the learned trial Court concerned, hence, make his personal appearance therebefore, unless his personal appearance is permitted to be dispensed with, through an appropriate application, being preferred by him, before the learned trial Judge concerned. Moreover, the bail applicant-accused shall also furnish an undertaking before the learned trial judge concerned, that he shall not tamper with prosecution evidence nor he shall influence the prosecution witnesses.

Disposed of.

(SURESHWAR THAKUR)
JUDGE

October 29, 2021
Gurpreet

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