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

CRM-M-48334-2021

Date of decision : 18.11.2021

Lakha Ram

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kuldeep Singh Siwach, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. read with Section 438 of Cr.P.C. for setting aside the order dated 16.08.2021 (Annexure P-14) vide which the bail of the petitioner has been cancelled and his bail bonds and surety bonds have been forfeited to the State.

Learned counsel for the petitioner has submitted that in the present case, FIR No.408 dated 08.08.2018 under Sections 21 and 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to be referred as “the Act of 1985”) was registered against the petitioner on the allegation that the petitioner was found in possession of 6 grams of heroin and that the petitioner was granted regular bail on 30.08.2018 (Annexure P-1).

Learned counsel for the petitioner has referred to the zimni orders dated 27.01.2020 (Annexure P-3) and 23.03.2020 (Annexure P-4) and on the said date, the petitioner was not produced by the Jail Authorities, Sirsa. Further reference has been made to orders dated 15.07.2020 (Annexure P-6), 31.07.2020 (Annexure P-7) and 04.09.2020 (Annexure P-8) to show that the matter, on all these dates, had been simply adjourned on account of COVID-19 pandemic. The zimni order dated 03.11.2020 (Annexure P-9) would indicate that on account of the Presiding Officer availing leave for 04.11.2020, the matter was adjourned. Zimni order dated 09.03.2021 would show that the petitioner had appeared on the said date and the matter was further adjourned to 07.05.2021. On account of COVID-19 pandemic, the matter was then adjourned to 29.07.2021, on which date, the petitioner had sought exemption from personal appearance and thereafter, since the petitioner had noted the next date of hearing as 16.09.2021 instead of 16.08.2021, thus, he could not appear on 16.08.2021 and on account of the same, the bail of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State and the petitioner was summoned through arrest warrants for 26.10.2021 and thereafter, the matter was further adjourned to 19.01.2022 vide order dated 26.10.2021 (Annexure P-15). It is submitted that the petitioner has not delayed the proceedings and it is only on account of noting the wrong date, that the petitioner could not appear on 16.08.2021.

Learned counsel for the petitioner has submitted that in case the orders under challenge are set aside, the petitioner would appear within a period of three weeks from today and is also ready to pay the amount of

Rs.5,000/- to be deposited in the High Court Lawyers' Welfare Fund. He has also relied upon the judgment of the Coordinate Bench of this Court in case titled **Kamaljit Singh @ Sonu Vs. State of Punjab**, reported as **2020(2) RCR (Criminal) 784**, as well as **judgment dated 15.11.2021** passed in **CRM-M-45959-2021** titled **Ravi Vs. State of Haryana**.

Notice of motion.

On advance notice, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist the Court. He has opposed the present petition and has submitted that on account of non-appearance of petitioner on 16.08.2021, three witnesses, who had also been summoned, could not be examined.

This Court has considered the arguments of learned counsel for the parties and has perused the record.

From the zimni orders, it is apparent that it is not the petitioner who had delayed the proceedings after having been granted regular bail. On several dates, the matter was adjourned on account of COVID-19 pandemic and also on account of the fact that the petitioner was not being produced by the Jail Authorities as he was in custody in another FIR. The plea raised by the petitioner that on 29.07.2021, the petitioner had noted the wrong date and thus, he could not appear on 16.08.2021, is accepted, since, the petitioner has without much delay, approached this Court.

Keeping in view the abovesaid facts and circumstances as well as law laid down in the judgments cited by the learned counsel for the petitioner, the present petition is allowed and orders dated 16.08.2021

(Annexure P-14) and 26.10.2021 (Annexure P-15) are set aside subject to the petitioner appearing before the trial Court within a period of three weeks from today and on deposit of an amount of Rs.5,000/- in the High Court Lawyers' Welfare Fund. On appearance of the petitioner, the petitioner would be admitted to bail, subject to his executing fresh bail bonds/surety bonds to the satisfaction of the trial Court. It is, however, clarified that in case, the petitioner does not appear before the trial Court within 3 weeks from today or does not deposit an amount of Rs.5,000/- in the High Court Lawyers' Welfare Fund within the stipulated time period, then the present petition would be deemed to have been dismissed.

18.11.2021*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**