

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

128

CRM-M-696-2022 (O&M)

Date of decision: 10.01.2022

PARDEEP SINGH @ GAGU

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Amit Choudhary, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks quashing of the order dated 21.12.2021 (Annexure P-1) passed by learned Special Judge, under NDPS Act, Fatehabad, vide which the bail of the petitioner was cancelled and his bail/surety bonds were forfeited to the State in FIR No.639 dated 02.12.2017, under Section 21, 27-A of the NDPS Act, 1985, Police Station City Fatehabad, District Fatehabad.

Learned counsel for the petitioner submits that the petitioner was initially granted the concession of anticipatory bail by the learned Additional Sessions Judge-I, Fatehabad, vide order dated 14.12.2017 and since then, he was attending the Court proceedings regularly. However, in order to attend the marriage of the daughter of petitioner's maternal uncle, he moved an application for exemption, which was dismissed by the trial Court, and the bail of the petitioner was cancelled and his bail/surety bonds were forfeited to the State.

Learned counsel for the petitioner submits that if the petitioner had appeared in the Court, then he could not able to attend the marriage, which was to be solemnized at District Kapurthala and the petitioner is a resident of District Fatehabad. He further submits that non-appearance of the petitioner was not intentional and that the petitioner is ready to again appear before the trial Court and face the trial.

Notice of motion.

On the asking of this Court, Mr. Ashok Singh Chaudhary Addl. AG Haryana, accepts notice. He, while opposing the prayer made by learned counsel for the petitioner, submits that since the petitioner, after getting the concession of anticipatory bail, has jumped it, he does not deserves the same concession again.

I have heard the learned counsel for the parties.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua the accused. The absence of the petitioner before the Court below appears to be non-intentional. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

The petitioner absented himself from the Court proceedings on 21.12.2021. He is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above, the present petition is allowed. Order dated 21.12.2021 (Annexure P-1) passed by learned Special Judge, under NDPS Act, Fatehabad, in FIR No.639 dated 02.12.2017, under Section 21, 27-A of the NDPS Act, 1985, Police Station City Fatehabad, District Fatehabad, is hereby set aside, qua the petitioner only.

Petitioner is directed to surrender before the trial Court/Duty Magistrate/Chief Judicial Magistrate concerned within 10 days and on his doing so, he shall be released on ad interim anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of learned trial Court/Duty Magistrate/Chief Judicial Magistrate concerned.

10.01.2022*Aman Jain***(HARNARESH SINGH GILL)
JUDGE***Whether reasoned/speaking?**Yes/No**Whether reportable?**Yes/No*