

111

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

CRM-M-6512-2022

Date of decision : 15.02.2022

Paramjit Singh @ Pamma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Krishan Kanha, Advocate for
Mr. Narinder S. Lucky, Advocate for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing the order dated 26.11.2021 (Annexure P-5) passed by the Special Court, Kapurthala in case titled “State Vs. Paramjit Singh” bearing No.NDPS-458-2016, vide which the non-bailable warrants for arrest of the petitioner have been issued alongwith forfeiture of bail bonds and surety bonds.

Learned counsel for the petitioner has submitted that FIR No.1 dated 06.01.2016 was registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1989 (hereinafter to be referred as “the NDPS Act”) against the petitioner for allegedly being in possession of 8.5 kg of poppy husk which is non-commercial quantity as the commercial quantity of

the same is 50 kg and vide order dated 13.11.2019 (Annexure P-3), the petitioner was granted the concession of regular bail. It is further submitted that the petitioner was regularly appearing before the trial Court and even on 22.10.2021 (Annexure P-4), the petitioner had appeared and the matter was adjourned to 26.11.2021. On 26.11.2021, the petitioner could not come present because of the fact that entry of the clients in the Court was restricted due to COVID-19 pandemic and the petitioner was assured by his counsel that the counsel will appear but for reasons best known to him, counsel did not appear and thus, impugned order was passed.

Learned counsel for the petitioner has submitted that the petitioner undertakes to appear within a period of 21 days from today before the trial Court in case, the interim protection is granted to the petitioner and also undertakes to appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court

Notice of motion.

On advance notice, Mr. Saurav Khurana, DAG, Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and submitted that the impugned order has been correctly passed, since the petitioner has not appeared in spite of having knowledge of the said date.

This Court has heard the learned counsel for the parties and perused the paper book.

The petitioner was granted bail vide order dated 13.11.2019 in the FIR after noticing the fact that alleged recovery from the petitioner is 8.5

kg of poppy husk which is non-commercial quantity as commercial quantity of the same is 50 kg. A perusal of the zimni order dated 22.10.2021 would show that the petitioner had appeared alongwith his counsel and the case was adjourned to 26.11.2021 for prosecution evidence. On 26.11.2021, no PW was present. It is the case of the petitioner that on account of COVID-19, entry of clients was restricted and it is on account of the same that the petitioner could not appear on 26.11.2021 when the impugned order was passed. The case is now stated to be listed for 31.03.2021 and the petitioner has undertaken to appear before the trial Court within a period of 21 days from today and also to appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the Court. Moreover, since, the purpose of issuance of non-bailable warrants is to secure the presence of the petitioner, thus, the interest of justice would be met, in case, the impugned order is set aside and the petitioner is directed to appear before the trial Court within a period of 21 days from today.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 26.11.2021 is set aside subject to the petitioner appearing before the trial Court within a period of 21 days from today and on his appearance, the trial Court is directed to release the petitioner on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to the petitioner depositing an amount of Rs.5000/- within the stipulated time of 21 days with the High Court Lawyers' Welfare Fund and would produce the receipt of the same before the trial Court at the time of his appearance and would also be subject to the petitioner giving an

undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is personally exempted by the Court.

It is, however, clarified that in case, the petitioner does not appear within 21 days from today before the trial Court and does not deposit the costs of Rs.5000/- before the High Court Lawyers' Welfare Fund and does not show the receipt of the same to the trial Court at the time of his appearance, then the present petition would be deemed to have been dismissed.

The petitioner is also directed to appear before the trial Court on each and every date except on the date when his personal appearance is specifically exempted by the Court.

15.02.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No