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

CRM-M-13811-2022

Date of decision : 07.04.2022

Peer Baksh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Gurpreet Kaur, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 24.02.2022 in CIS No.NDPS/530/2017 titled as State Vs. Sunita Devi etc. arising from FIR No.61 dated 25.03.2016 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, vide which the bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State and bail granted to him has been cancelled and non-bailable warrants have been issued.

Learned counsel for the petitioner has submitted that in the present case, FIR was registered in the year 2016 and the petitioner was granted bail and he was regularly appearing before the trial Court. It is further submitted that on 09.02.2022, the presence of the petitioner was

dispensed with keeping in view COVID-19 pandemic. Reference in this regard has been made to the order dated 09.02.2022 (Annexure P-2). It is argued that thereafter, the case was fixed for 24.02.2022 for defence evidence and on the said date, the trial of the present petitioner was separated as per the provisions enshrined under Cr.P.C. and bail order of the petitioner was cancelled and bonds and surety bonds of the petitioner were ordered to be forfeited to the State and non-bailable warrant for the petitioner was issued for 20.07.2022 and notice was also issued to his surety. It is further argued that the petitioner was under the impression that on account of COVID-19 pandemic, the proceedings would be adjourned and no notice was served to the petitioner for 24.02.2022. It is contended that the petitioner would appear within a period of one month from today before the trial Court, in case, he is granted protection and is also ready 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. Sarabjit S. Cheema, AAG, 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 has submitted that the petitioner had not appeared on 24.02.2022 and thus, the bail of the petitioner has been rightly cancelled and bonds/surety bonds have rightly been forfeited to the State. It is further submitted that the case is now fixed for defence evidence and the trial is at the fag end.

This Court has heard the learned counsel for the parties and has

perused the record.

FIR, in the present case is of the year 2016 and as per the case of the petitioner, the petitioner was granted bail and was regularly appearing before the Court. A perusal of the zimni order dated 09.02.2022 (Annexure P-2) would show that it had been stated by the Additional Sessions Judge, Ludhiana that keeping in view the COVID-19 pandemic, the presence of the accused be dispensed with and notices be issued to the petitioner and other co-accused Sunita. It is on 24.02.2022 that the petitioner had not appeared before the trial Court and thus, the trial of the petitioner was segregated and his bail was cancelled and surety bonds were ordered to be forfeited to the State and non-bailable warrant was issued to the petitioner and notice to his surety was also issued. The petitioner has been stated to not being served with a notice for appearance on 24.02.2022 and the petitioner was under the impression that the matter would be adjourned on account of COVID-19 pandemic.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court within a period of one month from today and to also appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court. Since, the purpose of issuance of non-bailable warrant was 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 one month.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 24.02.2022 to the

extent that bail order of the petitioner has been cancelled and bonds/surety bonds have been forfeited to the State and non-bailable warrants have been issued to the petitioner, is set aside subject to the petitioner appearing before the trial Court within a period of one month 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 with the High Court Lawyers' Welfare Fund 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 one month from today before the trial Court and does not deposit the costs of Rs.5000/- then, the present petition would be deemed to have been dismissed.

07.04.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**