

129

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

CRM-M-19682-2022

Date of decision : 09.05.2022

Sukhwinder Kaur @ Guli

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Nitin Narula, Advocate and
Mr. Sandeep Sharma, 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 setting aside the order dated 04.04.2022 (Annexure P-4) passed by the Special Court, Amritsar vide which the bail order of the petitioner stands cancelled and the bail bonds and surety bonds were forfeited to the State and non-bailable warrants were also issued against the petitioner.

Learned counsel for the petitioner has submitted that the petitioner was granted bail vide order dated 21.12.2019 (Annexure P-2) and a perusal of the said order would show that the recovery from the petitioner was found to be of non-commercial quantity. It is further submitted that the petitioner was appearing before the trial Court on each and every date but however, on 04.04.2022, the petitioner was not well and for the said purpose, learned counsel for the petitioner has relied upon Doctor's prescription dated 02.04.2022 (Annexure P-3) and thus, the petitioner could not appear on 04.04.2022. It is further contended that on 04.04.2022, no witness was present and there was an application for exemption moved by another co-

accused which was allowed but on account of ill health of the petitioner, the petitioner could not appear and the impugned order dated 04.04.2022 (Annexure P-4) was passed and non-bailable warrants were issued against the petitioner for 13.07.2022.

Learned counsel for the petitioner has further submitted that the petitioner undertakes to appear before the trial Court within a period of one month from today, in case, she is granted protection and impugned order dated 04.04.2022 (Annexure P-4) is set aside.

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 in the present case, the impugned order dated 04.04.2022 (Annexure P-4) had rightly been passed since the petitioner had neither appeared on the said date, nor informed the Court about her ill health and had not moved any application for exemption from appearance.

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

The petitioner was granted bail vide order dated 21.12.2019 (Annexure P-2) and a perusal of the said order would show that the recovery in the present case was of non-commercial quantity. It is the case of the petitioner that she had been regularly appearing before the trial Court on each and every date but on 02.04.2022, the petitioner fell ill, in reference to which, the petitioner has annexed Doctor's prescription alongwith the present

petition as Annexure P-3 and thus, she could not appear on 04.04.2022 and on 04.04.2022, there was no witness present and even another co-accused of the petitioner had filed an application for exemption from personal appearance and the same was allowed and thus, no delay has been caused on account of non-appearance of the petitioner. The petitioner is ready to appear before the trial Court within a period of one month from today.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 04.04.2022 (Annexure P-4) to the extent that the bail granted to the petitioner had been cancelled and the bail bonds and surety bonds were forfeited to the State and non-bailable warrants were issued against the petitioner and notice had been issued to the surety, is set aside, subject to the petitioner appearing before the trial Court within a period of one month from today and on her appearance, the concerned trial Court is directed to release the petitioner on bail on her furnishing bail bonds/surety bonds to its satisfaction. The same would also be subject to the petitioner depositing an amount of Rs.5000/- with Punjab and Haryana High Court Employees' Welfare Association Fund within the abovesaid period.

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.

09.05.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**