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

CRM-M-19975-2022

Date of decision : 11.05.2022

Rajiv Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Pankaj Garg, 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 06.04.2022 (Annexure P-1) passed by the Special Court, Mansa, whereby the bail order of the petitioner was cancelled and forfeited to the State with respect to FIR No.261 dated 28.09.2019 registered under Sections 18 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25 of the Arms Act at Police Station Sardulgarh, District Mansa.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was granted bail by the Judge Special Court, Mansa, vide order dated 02.11.2019 (Annexure P-8) with respect to FIR No.261 dated 28.09.2019, in which, the alleged recovery effected from the petitioner was of non-commercial quantity. It is further submitted that the petitioner had been regularly appearing before the trial Court and on 06.04.2022, he could not appear as he was not physically well. In support of his argument that the petitioner was not well, learned counsel for the petitioner

has placed on record Medical Certificate dated 05.04.2022 (Annexure P-2). It is contended that on 06.04.2022, no witness was present and the case has been adjourned to 18.05.2022 and the bona fide of the petitioner is apparent from the fact that the petitioner has approached this Court prior to 18.05.2022. It is argued that the petitioner would appear on 18.05.2022 before the trial Court and would also appear on each and every date, 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 order dated 06.04.2022 (Annexure P-1) had rightly been passed as the petitioner had neither appeared on the said date nor had moved an application for exemption from personal appearance.

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

The petitioner was granted regular bail vide order dated 02.11.2019 (Annexure P-8) in the present case in which the alleged recovery was of non-commercial quantity. It is the case of the petitioner that he had been regularly appearing before the trial Court but could not appear on 06.04.2022 as he was not well from 05.04.2022 to 07.04.2022 and in support of the said contention, Medical Certificate dated 05.04.2022 has been annexed with the petition as Annexure P-2. On 06.04.2022, no witness had appeared before the trial Court and thus, no delay has been caused in the trial. The bona fide of the petitioner is apparent from the fact that the non-bailable warrants have been issued for 18.05.2022 and the petitioner has approached this Court prior to

18.05.2022.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear on 18.05.2022 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 warrants is to secure the presence of the petitioner, thus, the interest of justice would be met, in case, order dated 06.04.2022 (Annexure P-1) is set aside and the petitioner is directed to appear on 18.05.2022 before the trial Court.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the order dated 06.04.2022 (Annexure P-1) is set aside subject to the petitioner appearing before the trial Court on 18.05.2022 and on his appearance, the trial Court is directed to release the petitioner on bail on his furnishing bail bonds/surety bonds subject to its satisfaction. The same would also be subject to the petitioner depositing an amount of Rs.2000/- with Bar Clerks Association, Punjab and Haryana High Court, Chandigarh on or before 18.05.2022 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 abovesaid conditions are not complied with within the stipulated period, then the present petition would be deemed to have been dismissed.

11.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No