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

CRM-M-22821-2022

Date of decision : 24.05.2022

Baljit Singh @ Baljiti

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Chandan Singh Rana, 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 impugned order dated 10.05.2022 (Annexure P-4) passed by the Judge, Special Court, Ludhiana, whereby the petitioner's bail order was cancelled and his bail bonds and surety bonds were cancelled and forfeited to the State and non-bailable warrants were issued against him in FIR No.37 dated 28.02.2021 registered under Section 21-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Division No.2, Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, as per the allegations levelled in the FIR, the petitioner was apprehended with 10 grams of heroin which is non-commercial quantity and

the petitioner was, thereafter, granted bail vide order dated 16.04.2021 (Annexure P-2) and, thereafter, the petitioner was regularly appearing before the trial Court and had even appeared on 23.03.2022 (Annexure P-3), on which date, no PW was present and the case was adjourned to 10.05.2022. It is further submitted that the petitioner had noted the wrong date i.e. 17.05.2022 instead of 10.05.2022 and thus, on 10.05.2022, the petitioner could not appear, on account of which, the impugned order was passed. It is contended that even on 10.05.2022, no PW was present and the case was adjourned to 15.07.2022. It is further contended that the petitioner is ready to appear on or before 15.07.2022 before the concerned trial Court, in case, he is granted protection and also undertakes to 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 petitioner had not appeared on 10.05.2022 before the trial Court despite having knowledge regarding the same and thus, the impugned order has rightly been passed.

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

The FIR in question was registered against the petitioner on the allegations that he was apprehended with 10 grams of heroin which is far less than the stipulated commercial quantity which starts from 250 grams.

The petitioner was thereafter granted bail vide order dated 16.04.2021 and it is the case of the petitioner that he was appearing regularly before the trial Court. A perusal of zimni order dated 23.03.2022 would show that the petitioner had appeared on the said date and no PW was present on the said date and the case was adjourned to 10.05.2022. It is the case of the petitioner that he had noted wrong date i.e. 17.05.2022 instead of 10.05.2022 and thus, could not appear on 10.05.2022, on account of which, the impugned order was passed. Even on 10.05.2022, no PW was present. The case has now been adjourned to 15.07.2022. The bona fide of the petitioner is clear from the fact that the petitioner has approached this Court prior to 15.07.2022, which is next date before the trial Court.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court on or before 15.07.2022 and also to 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 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 the aforesaid period.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 10.05.2022 is set aside, subject to the petitioner appearing before the trial Court on or before 15.07.2022 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/- on or before 15.07.2022 with Punjab and Haryana High Court Employees' Welfare Association 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 abovesaid conditions are not complied with, within the stipulated period, then the present petition would be deemed to have been dismissed.

24.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No