

...Petitioner

Versus

...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Brijeshwar Singh Bhalla, Advocate for the petitioner.

Mr. Amitoj Singh Dhaliwal, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
73	18.05.2021	Division-E, District Police Commissionerate, Amritsar	22/22C of NDPS Act

1. Challenging the order of cancellation of bail and issuance of non-bailable warrants due to the default in an appearance before the trial court, the petitioner has come up before this court.

2. The background leading to the cancellation of bail and issuance of non-bailable warrants is as follows:

In the present case, there is alleged recovery of 13680 intoxicant tablets from accused. Vide order dated 9.8.2021 passed by the Court of undersigned, accused Nishan Singh has been granted interim bail till receiving of chemical examiner report. Report of FSL received. As per report of FSL, the intoxicant tablets sent for analysis was found having the salt of Diphenoxylate Hydrochloride and Atropine Sulphate. As per report, the average weight of each tablet is 2.25 mg and 0.020 mg and total weight of psychotropic substance recovered from the accused/applicant comes 861 gram. Such salt exceeding 100 gram within the ambit of commercial quantity. Accused has not surrendered, as such, interim bail granted to accused/applicant Nishan Singh on dated 9.8.2021 is cancelled and non-bailable warrant of accused Nishan Singh be issued for 2.8.2022. Notice to surety be also issued for date fixed."

3. Ld. Counsel for the petitioner contends that the non-appearance was unintentional and without any endeavor to delay the trial. In paragraph 3 & 4 the

petitioner points out that the challan was present in the petitioner's absence and he had no knowledge about the date.

4. Without adjudicating the maintainability of this petition under section 482 Cr.P.C, and leaving that question open; given the explanation offered by the accused coupled with the facts and circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. The petition is allowed to the extent mentioned in this order and with the following conditions.

5. **There shall be a stay of the petitioner's arrest in the case mentioned above upto July 08, 2022; however, if the petitioner fails to appear within this time, then stay on arrest shall stand vacated without any further reference to this court. It is clarified that if the petitioner appears before the concerned court, then the impugned order dated 13-05-2022, Annexure P-1, passed by Ld. Additional Sessions Judge, Amritsar, issued by the concerned court against the petitioner in the matter mentioned above shall stand quashed, warrants canceled, and bonds restored. However, in case the Id. trial court so desires, it may ask the petitioner to furnish fresh bail bonds, and in such an eventuality, the petitioner shall execute a bond for attendance in the concerned court to its satisfaction.** The bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not cancelled due to non-appearance or breach of conditions.

6. On or before July 08, 2022, the petitioner shall procure a smartphone and inform its IMEI number and other details to the SHO/I.O. of the concerned Police station. The petitioner shall always keep the phone location/GPS on the "ON" mode. Whenever the Investigating officer asks to share the location, the petitioner shall immediately do so. The petitioner shall neither clear the location history, WhatsApp chats, calls nor format the phone without permission of the concerned SHO/I.O. This condition shall continue till the completion of the trial or closure of case, whatever is earlier.

7. On or before July 08, 2022, the petitioner shall deposit a sum of rupees ten thousand in 'High Court Lawyers Welfare Fund,' Account number 65018692589, SBI, IFSC SBIN0050306, Branch Code 50306, Branch Address State Bank of India, High Court Branch, Sector 1, Chandigarh. After depositing, the petitioner shall file the proof of deposit, before the concerned court and send its copy alongwith a copy of this order to the Secretary, Punjab & Haryana High Court Bar Association, either in physical or electronic mode.

8. ***This order is subject to the petitioner appearing before the concerned court on or before July 08, 2022, and complying with the above mentioned conditions, failing***

which it shall stand recalled under section 362 read with 482 Cr.P.C, without any further reference to this court.

9. Any Advocate for the petitioner and the Officer in whose presence the petitioner puts signatures on personal bonds shall explain all conditions of this bail order in any language that the petitioner understands.

10. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

11. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent mentioned above. All pending applications, if any, stand disposed.

**(ANOOP CHITKARA)
JUDGE**

27.06.2022

Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.