

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

CRM-M-28944-2022 (O&M)

Date of decision: 08.07.2022

Dheeraj @ Sammi and another

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Mohd. Yousaf, Advocate for
Mr. Kuldeep Singh Siwach, Advocate for the petitioners.

HARNARESH SINGH GILL, J. (ORAL)

Through the instant petition, the petitioners seek anticipatory bail in case bearing FIR No. 393 dated 21.07.2019, registered under Sections 21(b), 27(A) of the NDPS Act, at Police Station City Fatehabad, District Fatehabad.

Learned counsel for the petitioners submits that the petitioners were granted regular bail vide orders dated 19.08.2019 and 27.08.2019 passed by the Court of learned Judge, Special Court, Fatehabad; that the challan was presented on 02.06.2020; that on 06.10.2021, the application of co-accused Anil Kumar for exemption for personal appearance was allowed and the case was adjourned to 02.02.2022; that on 02.02.2022, the case was adjourned to 14.03.2022 due to Covid-19 pandemic; that on 14.03.2022, the petitioners could not appear before the learned trial Court, following which after cancellation of their bail, bail bonds and surety bonds were forfeited to the

State and warrants of arrest were issued had been issued against them; that absence of the petitioners was not intentional as at that time the Courts were functioning in a limited manner; that the petitioners came to know about the same when the police approached their family members and that the alleged recovery of 25 grams of *heroin* has already been effected from petitioner No. 1, which is non-commercial and petitioner No. 2 was entangled in the present case at a later stage.

Notice of motion.

On the asking of this Court, Mr. Ashok Singh Chaudhary, Addl. AG Haryana, accepts notice on behalf of respondent-State.

I have heard the learned counsel for the parties and have also gone through the paper-book.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua him. The absence of the petitioners before the Court below appears to be non-intentional. If the accused shows his sincere intention and desire to appear before the Court, then it would be justified to protect him from being arrested.

Though the petitioners absented themselves from the court proceedings, yet they are now not required for any investigation or interrogation purposes and rather, they are only to face the trial. Therefore, no useful purpose would be served by sending the petitioners to custody.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioners to surrender before the trial Court/Duty Magistrate,

on 11.07.2022, subject to them depositing the costs of Rs.10,000/- with the District Legal Services Authority, Fatehabad. On their doing so, the petitioners shall be released on bail, subject to them furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

08.07.2022

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No