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

CRM-M-30187-2022

Date of decision : 15.07.2022

Shinder Kaur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Prateek Pandit, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 28.02.2022 (Annexure P-7), whereby the Judge, Special Court, Jalandhar had cancelled the bail of the petitioner on account of her non-appearance in FIR No.142 dated 15.07.2019 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances, Act, 1985, at Police Station Shahkot, District Jalandhar (Rural).

Learned counsel for the petitioner has submitted that the petitioner was falsely implicated in the said case where the alleged

recovery of 8 grams of heroin had been effected, which is of non-commercial quantity and she was granted regular bail on 20.08.2019 (Annexure P-2) and thereafter, challan was presented on 22.11.2019 and charges were framed on 26.02.2021 and the petitioner had been regularly appearing before the trial Court and after 10.12.2021, the case was fixed for hearing on 21.01.2022 but on account of the 3rd wave of COVID-19, the Courts had started functioning in a restrained manner and under trials were not allowed to enter the Court premises and thereafter, on 21.01.2022, the petitioner had gone to the Court complex but was not allowed to go inside and thereafter, she had noted the wrong date of hearing i.e. 28.03.2022 instead of 28.02.2022 and thus, could not appear on 28.02.2022, on which date, the impugned order was passed. It is further submitted that no witness was present on 28.02.2022 and thus, no delay has been caused in the said proceedings on account of non-appearance of the petitioner. It is contended that the petitioner would appear within a period of 15 days from today before the trial Court. It is also contended that the petitioner undertakes to appear on each and every date before the trial Court unless her personal appearance is specifically exempted by the trial Court and is also ready to deposit an amount of Rs.5,000/- with the Punjab and Haryana High Court Employees' Welfare Association Fund within a period of 15 days from today.

Notice of motion.

On advance notice, Mr. Sukhbeer Singh, 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 28.02.2022 and thus, the impugned order had been rightly passed.

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

A perusal of the record would show that the petitioner was arrested in the said case where an alleged recovery of 8 grams of heroin, which is non-commercial quantity, had been effected and she had been granted regular bail on 20.08.2019 (Annexure P-2) and thereafter, she had been regularly appearing before the trial Court and on account of the 3rd wave of COVID-19, she was not permitted to appear on 21.01.2022 and thereafter, the case was adjourned to 28.02.2022 but it is the case of the petitioner that she had noted the wrong date i.e. 28.03.2022 instead of 28.02.2022 and the petitioner is now ready to appear within a period of 15 days from today before the trial Court and also undertakes to appear on each and every date before the trial Court unless her personal appearance is specifically exempted by the trial Court.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and the impugned order dated 28.02.2022 (Annexure P-7) is set aside, subject to the petitioner appearing before the trial Court within a period of 15 days from today and on her appearance, the trial Court is directed to release the petitioner on bail on her 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/- within the stipulated time 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 she would appear before the trial Court on each and every date unless her 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.

15.07.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No