

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-30255-2022
Date of decision : 18.07.2022

Amandeep Singh @ Aman @ Raja

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

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

Mr.Sarabjit Singh Cheema, AAG, Punjab.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of the order dated 23.05.2022 (Annexure P-13) passed by the Judge, Special Court, Kapurthala, in FIR no.143 dated 15.07.2019 registered under Sections 21,22, 29 of the Narcotic Drugs and Psychotropic Substances, Act, 1985 at Police Station Sultanpur Lodhi, District Kapurthala, whereby the trial Court had cancelled the bail of the petitioner on account of non-appearance on 23.05.2022.

Learned counsel for the petitioner has submitted that the petitioner was implicated in the above said FIR and the petitioner was granted bail under Section 167(2) Cr.P.C. vide order dated 15.01.2020 (Annexure P-2). It is further submitted that thereafter on 24.01.2020, the petitioner had appeared in person whereas, co-accused Paramjit Singh and Ajay Kumar were absent. It is also submitted that thereafter, Covid

pandemic spread across and for the same reference has been made to the zimni order dated 31.03.2020 (Annexure P-5) and 26.11.2020 (Annexure P-6) to highlight that during the said period, the case was being simply adjourned in lieu of Covid. It is stated that on 23.02.2021, notice was issued to the present petitioner for appearance as the cases were again being taken up but however, on 20.05.2021, the case was again adjourned on account of Covid pandemic. It is further stated that on 30.11.2021 the petitioner had appeared in person, as is apparent from the zimni order dated 30.11.2021 (Annexure P-10) whereas, accused Paramjit Singh had not appeared and thus, non-bailable warrants of arrest were issued against said Paramjit Singh. It is the case of the petitioner that in January 2022, he had suffered injuries in an accident and on account of the same, he could not appear on 17.02.2022 and on said date, an application for exemption had been filed. In the order dated 17.02.2022, he had stated that he has no objection in case the evidence is recorded in his absence and it was further recorded that Paramjit Singh had not appeared and thus, non-bailable warrants issued against the said Paramjit Singh. The petitioner has also annexed medical certificate with respect to the injuries suffered by the petitioner in the accident. It is stated that on 23.05.2022, the petitioner could not appear as he had noted wrong date i.e. 27.05.2022 and on account of the same, the bail order of the petitioner was cancelled and bail bonds and surety bonds were forfeited to the State. It is also stated that on the said date, no witness was present and thus, no delay was caused on account of the petitioner being absent and has stated that the case has now been adjourned to 24.08.2022 and the petitioner undertakes to appear on the said date and on all subsequent dates arising therefrom. It is submitted that the case of the

present petitioner is different from the case of Paramjit Singh inasmuch as, Paramjit Singh has already been granted interim bail but had to surrender after the receipt of FSL report and had not surrendered thereafter and has not been appearing in the Court inspite of issuance ofailable warrants.

Learned State counsel has opposed the present petition and has submitted that the petitioner was in the knowledge of the next date of hearing, i.e. 23.05.2022 and had chosen not to appear in the Court deliberately and thus, the impugned order has been correctly passed.

This Court has heard learned counsel for the parties and has gone through the paper book.

The petitioner was granted regular bail under Section 167(2) Cr.P.C. vide order dated 15.01.2020 and thereafter, had appeared on 24.01.2020 in person and on certain dates, the case was adjourned on account of Covid pandemic and thereafter, the petitioner had again appeared on 30.11.2021 (Annexure P-10) and subsequent to the same, it is the case of the petitioner that he had met with an accident in the month of January 2020 and regarding the same, medical certificate has also been produced and the petitioner had moved an application for exemption on 17.02.2022 and had specifically made statement that he has no objection in case evidence is recorded in his absence. On 23.05.2022, the petitioner had not appeared on account of the fact that the petitioner had noted a wrong date instead of the correct one. The case is now fixed for 24.08.2022 and the petitioner has undertaken to appear regularly before the trial Court except on those dates where his personal appearance is specifically exempted by the trial Court. The case of the petitioner is on a higher footing than that of Paramjit Singh as has been put forth by the learned counsel for the petitioner.

Keeping in view the above said facts and circumstances, the present petition is allowed and the order dated 23.05.2022 is set aside to the extent that the bail order, bail bonds and surety bonds of the petitioner have been cancelled and forfeited to the State and non-bailable warrants have been issued against the present petitioner. The petitioner is directed appear before the trial Court within a period of one month from today and on his appearance, the petitioner would be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court and also subject to the petitioner depositing an amount of Rs.5000/- with the Bar Clerks Association, Punjab and Haryana High Court, Chandigarh, within a period of one month from today and also subject to the petitioner giving an undertaking before the Court that he would appear on each and every date of hearing till his presence is specifically exempted.

In case the petitioner fails to comply the above said conditions, the petition would be deemed to have been dismissed.

(VIKAS BAHL)
JUDGE

July 18, 2022

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No