

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

CRM-M-31689-2022

Date of Decision: 22.07.2022

Nirmal Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Avneet Kaur, Advocate for
Mr. Digvijay Nagpal, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J.(Oral)

Through this petition, the petitioner seeks quashing of the order dated 07.05.2022 (Annexure P-3) passed by learned Judge, Special Court, Mansa, whereby warrant of arrest was issued against the petitioner, cancelling his bail, in case bearing FIR No.106 dated 19.11.2021, registered at Police Station Jhunir, District Mansa, under Sections 22 and 29 NDPS Act, 1985.

Learned counsel for the petitioner contends that vide order dated 23.12.2021 passed by learned Judge, Special Court, Mansa, the petitioner had been granted the benefit of regular bail; that the petitioner had been regularly appearing before the trial Court; that Clerk of the Advocate before the trial Court had wrongly noted down the date, as 07.06.2022 instead of 07.05.2022 and, therefore, the petitioner could not appear before the trial Court on 07.05.2022; that due to non-appearance of the petitioner on 07.05.2022, his bail was cancelled and warrant of arrest was issued against him; that absence of the petitioner before the trial Court was not intentional and rather was for the reason that a wrong date had been noted down, and that the petitioner is now ready to appear before the trial Court.

Notice of motion.

On the asking of this Court, Mr. Harbir Sandhu, AAG, Punjab, accepts notice on behalf of the respondent-State, and submits that the trial Court has rightly issued warrant of arrest against the petitioner.

I have heard the learned counsel for the parties.

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 petitioner 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.

The petitioner absented himself from the court proceedings. He is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, the impugned order dated 07.05.2022 (Annexure P-3) is set aside and the petitioner is directed to surrender before the trial Court/Duty Magistrate, within 15 days from today, subject to him depositing the costs of Rs.10,000/- with the District Legal Services Authority, Mansa. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Disposed of.

22.07.2022

parveen kumar

Note: Whether speaking/reasoned

Whether reportable

(HARNARESH SINGH GILL)

JUDGE

: Yes/No

: Yes/No