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

CRM-M-32476-2022

Date of decision : 27.07.2022

Gopal Mahajan @ Gopi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amandeep Singh, Advocate for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 15.07.2022 passed by the Additional Sessions Judge, Ludhiana, vide which, the trial Court had cancelled the bail bonds and surety bonds of the petitioner in FIR No.229 dated 09.10.2018 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Dugri, District Ludhiana.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was apprehended and the alleged recovery effected from him was of 10 grams of heroin, which is a non-commercial quantity inasmuch as the commercial quantity of the same starts from 250 grams and that the petitioner was granted regular bail vide order dated 25.10.2018 passed by the Additional Sessions Judge, Ludhiana. It is further submitted that the petitioner had been regularly appearing before the Court after the bail was granted to him and it is only on 15.07.2022, when the petitioner could not appear before the

Court as he was suffering from Enteric Fever and was advised for seven days rest i.e. from 13.07.2022 to 19.07.2022 and for the said purpose, has relied upon Medical Certificate (Annexure P-2), the impugned order was passed. It is contended that on 15.07.2022, no prosecution witness was present and the case was adjourned to 27.10.2022. It is further contended that the petitioner would appear within a period of one month from today before the trial Court, in case, he is granted protection and would also appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court.

On the other hand, learned State Counsel has opposed the present petition and has submitted that the petitioner was aware about the date of hearing and thus, he has willfully not appeared on 15.07.2022 and thus, the impugned order had rightly been passed.

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

In the present case, the petitioner was granted regular bail vide order dated 25.10.2018 passed by the Additional Sessions Judge, Ludhiana, a copy of the same has been supplied today in the Court by the learned counsel for the petitioner during the course of arguments and the same is taken on record and marked as Mark "A". A perusal of the same would show that the alleged recovery effected from the present petitioner was of 10 grams of heroin, which is a non-commercial quantity. It is the case of the petitioner that he had been appearing regularly before the Court on each and every date but on 15.07.2022, he could not appear as he was stated to be suffering from Enteric Fever and was advised rest for a period of seven days i.e. from 13.07.2022 to 19.07.2022 and with regard to the same, Medical Certificate has been annexed

as Annexure P-2 with the paper book. A perusal of order dated 15.07.2022 would show that on the said date, no prosecution witness was present.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court within a period of one month from today and to also appear on each and every date before the trial Court unless his 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 15.07.2022 passed by the Additional Sessions Judge, Ludhiana, is set aside subject to the petitioner appearing before the trial Court within a period of one month from today and on his appearance, the trial Court is directed to release the petitioner on bail on his 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/- with Punjab and Haryana High Court Employees' Welfare Association Fund within a period of one month from today and would also be subject to the petitioner giving an undertaking to the trial Court that he would appear before the trial Court on each and every date unless his appearance is specifically 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.

27.07.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No