

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

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CRM-M-34694-2022

Date of decision: 06.08.2022

RAM LAKHAN ALIAS LAKHAN

.....Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. B.S. Mamli, Advocate
for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner is an accused in case FIR No. 169 dated 21.04.2020, registered at Police Station City Tohan, District Fatehabad, wherein offences constituted under Section 21(c) of the NDPS Act (Section 29 of the NDPS Act added lateron), 188 and 269 of the IPC, besides Sections 25, 54, 59 of the Arms Act, are embodied.

2. This Court upon the present petitioner's application under Section 439 Cr.P.C. had admitted him to regular bail through a decision made on 15.02.2021, upon, CRM-M-31675-2020. However, a reading of the orders (supra), does not reveal, that there was any direction upon the present petitioner to cause his regular appearance(s), before the learned trial Judge concerned, unless he is validly exempted, and, nor any further direction is carried therein, that in case the above condition is breached, thereupon, liberty is reserved to the learned trial Judge

concerned, to cancel the order (supra), as made by this Court.

3. However, even in the wake of the above echoings not being made in the order (supra), as recorded by this Court, yet the learned trial Judge for want of appearance(s) before him, of the present petitioner has proceeded to rescind the orders, made by this Court, which however he could not do, as no other Court than this Court, became vested with jurisdiction to rescind the orders (supra), and, that too after notice being served upon the accused petitioner herein.

4. The above stated jurisdiction to rescind the order made by this Court may have become exercised, even by the learned trial Judge concerned, but only when there was a specific echoing in the orders (supra), that upon failure of regular personal appearance(s) of the accused before the learned trial Judge, and, without his becoming validly exempted, his avoiding, to, despite service being caused upon him of non coercive processes, rather record his personal appearance(s) before him.

5. However, as above stated, the above echoing does not occur in the order as made by this Court.

6. Consequently, the learned Additional Sessions Judge, Fatehabad exceeded his jurisdiction in rescinding the order (supra), made by this Court. Therefore, the impugned order is quashed and set aside, only with respect to the present petitioner, but with a condition that the present petitioner shall forthwith make his appearance, for the relevant purpose before the learned trial Judge concerned.

7. If the present petitioner forthwith makes his personal appearance before the learned trial Judge concerned, thereupon, the

latter shall ensure his furnishing before him personal, and, surety bonds with an undertaking that unless he is validly exempted, he shall cause his regular appearance(s) before him, and ,also shall ensure that in case the above undertaking is breached, and, that to without any valid exemption being granted to the petitioner upon his application for exemption, he shall proceed to draw such coercive processes, as deemed fit.

8. It is clarified also that the nonailable warrants, if not issued, be not issued and if have been issued, they be recalled forthwith.

9. Disposed of.

06.08.2022
kavneet singh

(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No