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

CRM-M-35367-2022 (O&M)
Date of decision : 09.08.2022

Anuj Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. B.D. Sharma, 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 06.12.2021, whereby the Judge, Special Court, Jalandhar has cancelled the bail orders, bail bonds and surety bonds and has further issued non-bailable warrants of arrest for securing the presence of the petitioner in FIR No.272 dated 15.12.2017 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Division No.1, Jalandhar.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was allegedly found to be in possession of 5 grams of heroin which is far lesser than the stipulated commercial quantity as the same starts from 250 grams and was arrested and thereafter, he was

granted regular bail vide order dated 03.01.2018 (Annexure P-2) and the petitioner had thereafter been regularly appearing before the trial Court and not even a single prosecution witness was examined during the pendency of the trial. It is further submitted that the petitioner has been working in Mumbai and had been coming and appearing before the Court from Mumbai on each and every date and it was on 06.12.2021, that the petitioner on account of ill health, could not travel from Mumbai to Jalandhar and on that basis, the impugned order was passed. It is contended that the case before the trial Court is now pending for 23.08.2022 and the petitioner undertakes to appear on or before the said date before the trial Court, in case, he is granted protection and also on each and every date thereafter unless his personal appearance is specifically exempted by the trial Court. It is further contended that on the date when the petitioner could not appear, no prosecution witness was examined and thus, no delay has been caused in the trial of the case on account of his non-appearance.

On the other hand, learned State Counsel has opposed the present petition and has submitted that the petitioner was well aware about the date of hearing before the trial Court 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.

The petitioner was found to be in alleged possession of 5 grams of heroin which is far lesser than the stipulated commercial quantity as the commercial quantity of the same starts from 250 grams and the petitioner was granted regular bail vide order dated 03.01.2018 (Annexure P-2). It is

the case of the petitioner that he had been regularly appearing before the trial Court although, he is residing in Mumbai and he had been coming from Mumbai to Jalandhar to appear in the said case. It is further the case of the petitioner that not even a single prosecution witness has been examined and that on 06.12.2021, the petitioner was not well and could not travel from Mumbai to Jalandhar, on account of which, the impugned order was passed. The petitioner is now ready to appear before the trial Court on or before 23.08.2022 which is the next date of hearing. A perusal of the impugned order dated 06.12.2021 would show that on the date when the petitioner did not appear, no prosecution witness was present and thus, the trial was not delayed on the said account.

Learned counsel for the petitioner has already submitted that the petitioner has undertaken to appear before the trial Court on or before 23.08.2022 which is the next date of hearing and to also appear on each and every date thereafter 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 06.12.2021 to the extent that bail order, bail bonds and surety bonds of the petitioner have been cancelled and forfeited to the State and non-bailable warrants of arrest for securing the presence of the petitioner have been issued and the order dated 04.06.2022 vide which the proceedings under Section 82 of Cr.P.C. have also been initiated against the petitioner, is set aside, subject to the petitioner appearing before the trial Court on or before 23.08.2022 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 the Punjab and Haryana High Court Employees' Welfare Association Fund and Rs.5000/- with High Court Lawyers' Welfare Fund within the stipulated time 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.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

09.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No