

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

103

**CRM M-35851 of 2022 (O&M)
Date of Decision: August 16, 2022**

Manish Kumar @ Mani	Versus	...Petitioner
State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Akhilesh Vyas, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, Astt. A.G., Punjab.

N.S.SHEKHAWAT, J. (Oral)

The petitioner has filed the instant petition under Section 482 Cr.P.C. with a prayer to set aside the order dated 05.07.2022 (Annexure P-3) passed by learned Special Court, Amritsar, whereby, non-bailable warrants have been issued against the petitioner on account of his non-appearance and his bail bonds have been cancelled and forfeited in FIR No. 87 dated 04.08.2018 under Sections 21 and 22 of NDPS Act, 1985 registered at Police Station Ramdas, District Amritsar Rural.

Learned counsel for the petitioner submits that the challan in the instant case was presented on 02.03.2019. The trial of the accused proceeded further before the learned Special Court, Amritsar and when it was listed for prosecution evidence on 05.07.2022, the petitioner could not appear before the Court as he has noted down the incorrect date of hearing. He appeared on 07.07.2022 and came to know about the issuance of non-bailable warrants

against him. A copy of the said order has been annexed with the petition as Annexure P-3, which has been reproduced below:-

“Accused Manish Kumar is absent without any intimation. Today neither accused nor any exemption application on behalf of accused moved. Bail order of accused stands cancelled. Bail bonds and surety bonds cancelled and forfeited to State. Non bailable warrants of accused Manish Kumar be issued for 12.08.2022. Notice to surety be also issued for the date fixed. PW Satnam Singh is present for cross-examination. He is discharged for the time being”.

A perusal of the said order shows that the said order has been passed by the learned Special Court, Amritsar. After passing of the order (Annexure P-3), the petitioner applied for anticipatory bail in the said case, which was dismissed on 15.07.2022 (Annexure P-4) by learned Judge, Special Court, Amritsar. However, while declining the relief of anticipatory bail, the Special Court observed that “**the accused may take appropriate steps under Section 72(2) Cr.P.C., for recalling/cancellation of warrants or he may assail the order issuing warrants against him before the higher courts**”.

A perusal of Section 70(2) Cr.P.C. mandates that every warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

Consequently, the petitioner has the remedy of filing an appropriate application before the Court of learned Judge, Special Court, Amritsar in terms of Section 70(2) Cr.P.C.

Accordingly, the petitioner is permitted to withdraw the instant petition with liberty to move an appropriate application before the Special Court, Amritsar in view of the liberty granted to him in order (Annexure P-4) as well as in the light of the provisions of Section 70(2) Cr.P.C.

Dismissed as withdrawn with liberty aforesaid.

However, in case, the petitioner files any such an appropriate application before the learned Special Court, Amritsar, the same shall be decided by the learned Special Court, expeditiously, preferably, within a period of 10 days and consider the case of the petitioner sympathetically, in view of the fact that he could not appear only on one date of hearing.

August 16, 2022
amit rana

(N.S.SHEKHAWAT)
JUDGE

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