

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

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**CRM-M-37262-2022
Decided on : 26.08.2022**

Partap Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Satwant Mehta, Advocate
for the petitioner(s).

Mr. A.S. Sandhu, AAG, Punjab.

SANJAY VASHISTH, J. (Oral)

Prayer in this petition filed under Section 438 Cr.P.C., is for grant of anticipatory bail to the petitioner in FIR No. 0081, dated 23.12.2018, under Section 18-21 of the NDPS Act, 1985 read with Section 25 of the Arms Act, 1959, registered at Police Station Khalra, District Tarn Taran, in the even of arrest or surrender before the learned trial Court.

On dated 23.08.2022, following order was passed:-

“Learned counsel for the petitioner submits that vide order dated 25.06.2021 (Annexure P-2), the petitioner was granted bail by passing a detailed order and thereafter the petitioner had been appearing before the Trial Court on all the dates. Learned counsel refers to order dated 22.09.2021 (Annexure P-4), where number and title of the case has been shown as “NDPS-175-21 State vs Partap Singh” and the following order was passed:-

“Present: APP for the State.

Accused on bail with counsel.

*Challan of co accused be also put up with
present case file on 01.10.2021”*

Learned counsel for the petitioner further submits that on

01.10.2021 (Annexure P-5), another order was passed in “NDPS-56-2020 State vs Nirvail Singh”, inter alia, observing that supplementary challan qua Partap Singh (present petitioner) has been clubbed with this challan file (i.e. in the case of Nirvail Singh) and that because of non-appearance of Partap Singh on the said date his bail was canceled and he was summoned through non-bailable warrants for 03.11.2021. Learned counsel also refers to order dated 03.12.2021 (Annexure P-6), passed by the learned Trial Court, which shows that there are total four accused, namely, Harjinder Singh, Jora Singh, Gurlal Singh and Partap Singh (present petitioner).

Learned counsel for the petitioner submits that there appears to be some confusion that has arisen while passing order dated 01.10.2021 (Annexure P-5) by the learned Trial Court, inasmuch as, the challan in the case of the petitioner has wrongly been clubbed with the case No. NDPS-56- 2020 State vs Nirvail Singh. It is further submitted that since the title of the case itself is showing ‘State v. Nirvail Singh’, the petitioner was not aware of listing of the case on 01.10.2021 and the date noted by him was 28.01.2022. On the said account, the bail earlier granted to the petitioner was canceled.

Notice of motion.

Mr. J.S. Arora, Deputy Advocate General, Punjab, who is present in the Court, accepts notice. Advance copy of the paper book has already been supplied.

On instructions from ASI Satnam Singh, learned State counsel submits that in case FIR No. 0081, dated 23.12.2018, under Sections 18 and 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, read with Section 25 of the Arms Act, 1959, registered at Police Station, Khaira, District Tarn Taran, there are total four accused including the petitioner, namely, Harjinder Singh, Jora Singh, Gurlal Singh and Partap Singh (present petitioner). However, to remove the confusion and to seek further instructions, learned State counsel prays for a short accommodation.

In the interest of justice, adjourned to 26.08.2022.”

Today, in compliance of order dated 23.08.2022 of this Court, a short reply by way of affidavit of Mr. Preetinder Singh, PPS, Deputy Superintendent of Police, Sub Division Valtaha Camp at Bhikhiwind,

District Tarn Taran, on behalf of respondent-State, has been filed by learned State counsel in Court today. Same is taken on record, subject to all just exceptions.

A copy thereof has been handed over to the counsel for the petitioner.

Learned State counsel refers to the contents of para 7 of the aforesaid short reply/affidavit, wherein, it is admitted that due to typographical mistake, name was wrongly mentioned in the order as “State Vs. Nirvail Singh”.

Learned State counsel further submits that in fact, petitioner intentionally did not appear before the trial Court on the date of hearing.

Upon this, counsel for the petitioner submits that it is a matter of fact that due to noting of wrong date by the petitioner, he could not appear before the Court on 01.10.2021, which resulted in cancelling of his bail and forfeiting of bail bonds and also issuance of non-bailable warrants.

Counsel for the petitioner further submits that if one opportunity is granted to the petitioner, he is ready to appear before the Court and further requested that in the eventuality of appearing before the learned trial Court within 10 days from today, he be released on bail as per the satisfaction of the trial Court.

Learned State counsel while opposing the contentions raised by counsel for the petitioner, submits that the order dated 01.10.2021 (Annexure P-5) should be upheld, because on account non-appearance of petitioner, proceedings of the trial are delayed.

After considering all the circumstances and the submissions recorded hereinabove, I am of the considered view that to avoid further delay

in proceedings of the trial and to secure immediate presence of the accused, it would be appropriate if one chance is given to him to appear before the trial Court.

Therefore, if within a period of 07 days from today, petitioner appears before the trial Court, he is ordered to be released on bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the learned trial Court. Besides, petitioner would also submit specific undertaking/affidavit that in future he would never commit default in appearing before the trial Court and would cooperate with the Court proceedings, until he is granted exemption from personal appearance before the trial Court, if so ever prayed.

In terms of the aforementioned observations, present petition is allowed and the order dated 01.10.2021 (Annexure P-5) is quashed to the extent of issuance of non-bailable warrants.

Needless to observe here that in case, petitioner does not appear before the trial Court, as mentioned above, fresh non-bailable warrants would be issued.

(SANJAY VASHISTH)
JUDGE

August 26, 2022

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No