

119-A

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

CRM-M-37271-2022

Date of decision : 24.08.2022

Joginder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Lajpat Rai Sharma, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 27.07.2022 (Annexure P-3) passed by the Special Judge, Fazilka in FIR No.188 dated 17.12.2021 registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Vairo ke, District Fazilka vide which, bail order of the petitioner has been cancelled, bail bonds and surety bonds of the petitioner were cancelled and forfeited to the State and the petitioner has been summoned through non-bailable warrants of arrest for 11.11.2022.

Learned counsel for the petitioner has submitted that in the present case, the petitioner was granted regular bail on 21.01.2022 (Annexure P-2) and it was observed that Harjit Singh and petitioner-

Joginder Singh were found in possession of 5 kg of poppy husk which would fall within the ambit of non-commercial quantity. It is further submitted that the petitioner had noted wrong date i.e. 02.08.2022 instead of 27.07.2022 and thus, could not appear on 27.07.2022 and subsequently, he learnt that the impugned order had been passed. It is contended that the next date before the trial Court is 11.11.2022 and the petitioner undertakes to appear before the trial Court within a period of one month from today and also on each and every date thereafter, unless his appearance is specifically exempted by the Court.

On the other hand, learned State Counsel has opposed the present petition and has submitted that the petitioner was well aware of the date of hearing before the trial Court and since, he did not appear 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 and his co-accused were involved in the case in which, the alleged recovery was of 5 kg of poppy husk. The petitioner was released on bail vide order dated 21.01.2022 (Annexure P-2) and it is the case of the petitioner that the petitioner had noted wrong date i.e. 02.08.2022 instead of 27.07.2022 and thus, he could not appear on 27.07.2022 and the impugned order was passed. A perusal of the impugned order would show that no prosecution witness was present on that day and thus, non-appearance of the petitioner has not caused any delay in the proceedings.

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 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 27.07.2022 (Annexure P-3) 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 Bar Clerks Association, Punjab and Haryana High Court, Chandigarh 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 time period, then the present petition would be deemed to have been dismissed.

24.08.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**