

In the High Court of Punjab and Haryana at Chandigarh

110

CRM-M-37330 of 2022 (O&M)

Date of Decision: 22.11.2022

Gulab Ram

---Petitioner

versus

State of Punjab

---Respondent

Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. P.S.Sekhon, Advocate
for the petitioner

Mr. Amish Sharma, AAG, Punjab

JAGMOHAN BANSAL,J. (ORAL)

CRM-44619 of 2022

Prayer in this application is for placing on record Annexure P-12.

Allowed as prayed for.

Annexure P-12 is taken on record, subject to just exception.

Registry is directed to tag the same at an appropriate place.

CRM-M- 37330 of 2022

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking quashing of order dated 5.8.2022 (Annexure P-11) passed by Judge Special Court, Ludhiana vide which bail of the petitioner was cancelled and bailable warrants have been issued against the petitioner.

Learned counsel for the petitioner submits that petitioner is a licenced chemist and running his concern in the name and style of Gulab Medical Agency.

The petitioner was arrested in FIR No. 104 dated 24.5.2021 under Section 22 of

the NDPS Act, registered at Police Station City-2, Klhanna, Police District Khanna, District Ludhaina and thereafter released on regular bail vide order dated 6.7.2021 passed by Judge Special Court, Ludhiana. The police after completing investigation filed its final report before trial court on 12.4.2022 and thereafter trial court framed charges against the petitioner. The petitioner due to wrong noting of date could not appear before learned trial Court on 5.8.2022 and trial court cancelled bail bonds of the petitioner and issued non-bailable warrants of arrest. The petitioner is ready to face proceedings and undertakes to appear before the court on each date without any default. Learned counsel further submits that the petitioner is ready to pay costs of Rs. 25,000/- for wasting the valuable time of the Court.

Notice of Motion.

On the asking of the Court Mr. Amish Sharma, AAG, Punjab, accepts notice on behalf of respondent-State and fairly does not dispute the facts, however, prays for costs.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

The object of arrest is neither punitive nor preventive. Detention or arrest not only deprives a person from his fundamental right of personal liberty guaranteed by Article 21 but also freedom guaranteed by Article 19(1) of our Constitution. Life of every human being is most precious gift of God and everyone has very limited span of life which cannot be spoiled on account of

unethical action of the State machinery. Except habitual offender, commoners living simple life after arrest lose self-respect and confidence within himself as well State. It has become very common to put criminal law in motion even though dispute involved is purely contractual or civil in nature. Many times arrest entails deprivation of source of income of entire family besides forever stigma in a closely knit society like ours. There is neither mechanism to compensate a man who is later on found innocent nor acquittal can return valuable time, energy, status, future of family members especially children which is lost on account of incarceration of bread earner of the family. Imprisonment before conviction is a sort of punishment especially when rate of conviction in our country is abysmally low.

Keeping in mind:

- (i) The object of cancellation of bond or declaration of anyone as proclaimed offender/person is to secure his presence. The petitioner has come forward to face trial and undertakes to appear before trial court on each and every date, thus ,his presence would meet ends of justice;
- (ii) The Petitioner for wasting valuable time and energy of courts as well prosecution is willing to pay costs of Rs. 25,000/-;
- (iii) The Petitioner is ready to furnish bail/surety bonds to the satisfaction of the trial court;
- (iv) The Petitioner is not involved in any other offence;
- (v) The petitioner is resident of Khanna (Punjab) and trial is pending at Ludhiana (Punjab), thus jurisdictional court and police authorities have direct access over the activities of the petitioner.
- (vi) The petitioner was initially granted regular bail by Judge Special Court, Ludhiana on 6.7.2021 and petitioner thereafter on many date appeared before trial court;
- (vii) Trial is pending since 2021 and petitioner is ready to face trial, thus, no prejudice is going to cause to prosecution or complainant;

this court is of the considered opinion that present petition needs to be allowed, and accordingly, the petition is allowed. Order dated 5.8.2022 (Annexure P-11)

concession of bail, subject to furnishing of fresh bail bonds to the satisfaction of learned Trial Court. The petitioner is directed to appear before learned Trial Court on 29.11.2022 and furnish fresh bail bonds. The petitioner, as agreed, shall pay costs of Rs.25,000/-, to be deposited with the Legal Services Authority, Ludhiana.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

22.11.2022
paramjit

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