

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

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CRM-M-39424-2022

Date of Decision: 01.09.2022

Butta Singh

...Petitioner.

Versus

State of Punjab

...Respondent.

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jasdeep Singh, Advocate for the petitioner.

Harnaresh Singh Gill, J. (Oral)

Prayer in this petition is for setting aside the order dated 04.07.2022 (Annexure P-4) and subsequent order dated 22.08.2022 (Annexure P-5), vide which the non-bailable warrants have been issued against the petitioner for 28.10.2022.

Learned counsel for the petitioner states that in case FIR No.138 dated 28.07.2019, registered under Section 21 of NDPS Act, at Police Station Tibba, District Ludhiana, registered against the petitioner, he was granted bail on 27.08.2019. The petitioner was regularly appearing before the trial Court, however, it was on two dates i.e. 28.04.2022 and 04.07.2022 that the petitioner could not appear because he was admitted in Drug Counselling and Rehabilitation Center, Rai Pur Sahoran, District Una (H.P.) as is evident from letter dated 17.08.2022 (Annexure P-3). It is, thus, contended that non-appearance of the petitioner was neither intentional nor wilful, but for the reasons explained above.

Notice of motion.

On the asking of this Court, Mr. I.P.S. Sabharwal, DAG Punjab, accepts notice on behalf of the respondent-State.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on 28.04.2022 and 04.07.2022, due to the reasons as explained above and therefore, his non-appearance on the said dates was unintentional.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Though the petitioner absented himself from the Court proceedings, yet he is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending the petitioner to custody.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is allowed with a direction to the petitioner to surrender before the trial Court/Duty Magistrate, within 15 days from today, subject to him depositing the costs of Rs.15,000/- with the concerned District Legal Services Authority. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

01.09.2022

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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No