

CRM-M-40177-2022

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

CRM-M-40177-2022

Date of decision: 05.09.2022

Parmeshar Singh

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Madan Sandhu, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks quashing of the order dated 28.10.2021, 03.12.2021, 22.02.2022, 12.05.2022 and 16.08.2022 (Annexures P-12 to P-16) passed by learned Addl. Sessions Judge, Jalandhar, whereby warrants of arrest were issued against the petitioner, cancelling his bail, in case bearing FIR No.111 dated 22.06.2019, under Section 21 NDPS Act, 1985, registered at Police Station Shahkot, District Jalandhar Rural.

Learned counsel for the petitioner contends that vide order dated 24.07.2019 passed by the trial Court, the petitioner had been granted the benefit of regular bail; that the petitioner had been regularly appearing before the trial Court; that the petitioner was arrested in some other case bearing FIR No.233 dated 29.07.2020, under Sections 307, 323, 324, 379, 452 and 34 IPC, Police Station Sultanpur Lodhi, but was granted regular bail on 19.03.2021. He further contends that due to Covid-19, the courts

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were functioning in a restrictive mode and the case was being adjourned from time to time; that the petitioner was not intimated regarding the date being fixed for physical hearing and due to this reason, he could not appear before the trial Court on 28.10.2021 following which his bail was cancelled and his bonds had been forfeited to the State.

Learned counsel further contends that a perusal of the order dated 16.08.2022 (Anexure P-16) would show that warrant of arrest issued against the petitioner has not been received back executed or unexecuted and to procure the presence of accused, proclamation proceedings have been initiated against him. He further contends that till now, the petitioner has not been declared a proclaimed offender in the present case. He further contends absence of the petitioner before the trial Court was not intentional and that the petitioner is now ready to appear before the trial Court.

Notice of motion.

On the asking of this Court, Mr. IPS Sabharwal, DAG Punjab, accepts notice on behalf of the respondent-State, and submits that the trial Court has rightly cancelled the bail of the petitioner.

I have heard the learned counsel for the parties.

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 him. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desires to appear before the Court, then it would be justified to protect him from being arrested.

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The petitioner absented himself from the court proceedings. 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 him to custody.

Keeping in view the above fact, the impugned order dated 28.10.2021, 03.12.2021, 22.02.2022, 12.05.2022 and 16.08.2022 (Annexures P-12 to P-16) are set aside and the petitioner is directed to surrender before the trial Court/Duty Magistrate, within 10 days from today, subject to him depositing the costs of Rs.15,000/- with the District Legal Services Authority, Jalandhar. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Disposed of.

05.09.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No