

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

CRM-M-41355-2022

Date of Decision: 09.09.2022

Avinash Chand

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Neha, Advocate, for
Mr. Naresh Kumar, Advocate,
for the petitioner.

Mr. Ramdeep Partap Singh, Sr. D.A.G., Punjab.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for setting aside the order dated 16.07.2022 (Annexure P-3) passed by the Judge Special Court, Hoshiarpur, whereby the bail and surety bonds of the petitioner have been cancelled and the petitioner has been summoned through non-bailable warrants in FIR No. 85, dated 10.07.2020, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Mukerian, District Hoshiarpur.

Learned counsel for the petitioner has submitted that the petitioner was granted regular bail vide order dated 30.07.2020 and in the said order it was specifically noticed that the alleged recovery from the petitioner was 03 kgs of poppy husk, which would fall under the non-commercial category and after the bail was granted to the petitioner, he was regularly appearing before the trial court but on account of noting

of the wrong date, the petitioner could not appear on 16.07.2022, on which date, the impugned order was passed.

It is submitted that the on the said date, i.e. 16.07.2022, no witness of the prosecution was present and thus, the trial has not been delayed on the said account. It is submitted that that the case is now fixed for 06.12.2022. It is also stated that the petitioner would appear before the trial court within a period of one month and would also appear on each and every date, unless the appearance of the petitioner is specifically exempted.

Notice of motion.

On advance notice, Mr. Ramdeep Partap Singh, Sr. D.A.G., Punjab, appears and accepts notice on behalf of the State and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that the petitioner was aware about the above-said date and his non-appearance on 16.07.2022 was a conscious act and thus, the impugned order has been rightly passed.

This court has heard learned counsel for the parties and has perused the paper book.

The petitioner was granted regular bail vide order dated 30.07.2020 (Annexure P-2) by the Additional District and Sessions Judge, Hoshiarpur and it is the case of the petitioner that he had been appearing regularly. It is the case of the petitioner that he had noted the wrong date, thus, he could not appear on 16.07.2022, on account of which, the impugned order has been passed. A perusal of order dated 16.07.2022, would show that no witness was present on the said date. The case is now

fixed for 06.12.2022 and the petitioner has undertaken to appear before the trial Court on the said date and also 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 above-said facts and circumstances, the present petition is allowed and the impugned order dated 16.07.2022 (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.5,000/- with the 'Punjab and Haryana High Court Employees' Welfare Association Fund' within a period of two weeks from today 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 personally 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.

September 09, 2022
nitin

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No