

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-41732-2022

Date of Decision: 14.09.2022

Manish Kumar @ Mani

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Akhilesh Vyas, Advocate for the petitioner

Sandeep Moudgil, J. (Oral)

The petitioner seeks setting aside of the order dated 26.08.2022 (Annexure P7) passed by Special Court, Amritsar in case FIR No.87 dated 04.08.2018 under Sections 21/22 of NDPS Act, 1985 registered at PS Ramdas, District Amritsar Rural (Annexure P1) whereby the petitioner's application dated 24.08.2022 (Annexure P6) under Section 70(2) CrPC for recalling/cancellation of warrants, has been dismissed. Further, the petitioner seeks quashing of the order dated 05.07.2022 (Annexure P3) vide which non-bailable warrants have been issued against the petitioner.

Learned counsel for the petitioner contends that earlier also he approached this Court against the order dated 05.07.2022 (Annexure P5) in CRM-M-35851-2022 which was disposed of on 16.08.2022 with the following directions:-

“Consequently, the petitioner has the remedy of filing an appropriate application before the Court of learned Judge, Special Court, Amritsar in terms of Section 70(2) Cr.P.C.

Accordingly, the petitioner is permitted to withdraw the instant petition with liberty to move an appropriate application before the Special Court, Amritsar in view of the liberty granted

to him in order (Annexure P-4) as well as in the light of the provisions of Section 70(2) Cr.P.C.

Dismissed as withdrawn with liberty aforesaid.

However, in case, the petitioner files any such an appropriate application before the learned Special Court, Amritsar, the same shall be decided by the learned Special Court, expeditiously, preferably, within a period of 10 days and consider the case of the petitioner sympathetically, in view of the fact that he could not appear only on one date of hearing.”

In pursuance to the aforesaid order, an application under Section 70(2) CrPC was filed on 24.08.2022 (Annexure P6) which has been dismissed vide order dated 26.08.2022 (Annexure P7) observing that the grounds in the application for petitioner's absence on 05.07.2022 does not inspire confidence for granting him the relief. It has been further observed that after remaining absent on 05.07.2022 he even did not appear on the next date i.e. 12.08.2022 as well and therefore the absence seems intentional on his part.

Learned counsel for the petitioner contends that it was the sole absence on 05.07.2022 due to wrong noting of date as 07.07.2022. He could not put in appearance on 12.08.2022 as the previous petition CRM-M-35851-2022 was pending before this Court, which stands disposed of.

Looking into the totality of the facts and circumstances and the submissions made by learned counsel that the petitioner absented on 05.07.2022 was due to wrong noting of date as 07.07.2022 and it was the sole absence on his part, this petition is allowed and the order dated 26.08.2022 (Annexure P7) is set aside and the petitioner is allowed the concession of continuing to be on bail and the warrants of his arrest will be kept in

abeyance. However, it will be open for the trial court that the already forfeited bail bonds and surety bonds may be asked to be furnished, afresh.

Ordered accordingly.

14.09.2022
V.Vishal

(Sandeep Moudgil)
Judge

1. *Whether speaking/reasoned?*

Yes/No
2. *Whether reportable?*

Yes/No