

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

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**CRM-M-43303-2022
Decided on : 19.09.2022**

Vinod Kumar

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Munish Puri, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner is seeking quashing of orders dated 26.07.2022, 22.08.2022, 12.09.2022 (annexed as Annexures P-8 to P-10 respectively), vide which bail order of the petitioner has been cancelled and his personal bail/surety bonds were forfeited to the State, resulting into issuance of non-bailable warrants of arrest in case FIR No. 31, dated 05.03.2017, under Section 20 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for brevity, 'NDPS Act'), registered at Police Station Division No.2, District Pathankot.

Learned counsel for the petitioner submits that in the main case under the NDPS Act, petitioner was found possessed with 105 grams of Charas, whereas, upto 100 grams of charas falls within the parameters of small quantity and the commercial quantity is more than 1.00 kg. He further contends that petitioner is aged 34 years, and no other case of similar nature was ever registered against him in past. While making his submissions, learned counsel for the petitioner submits that reason of his absence on 26.07.2022, when his bail was cancelled, has been well explained in the present petition in paragraph 5 i.e. noticing of wrong date for his appearance.

He was under a wrong impression that the next date fixed before the trial court is 26.08.2022, therefore, he could not acknowledge the actual date i.e. 26.07.2022. Thereupon, on coming to know of the cancellation of bail and issuance of non-bailable warrants, petitioner had filed anticipatory bail application before the trial Court, but the same was also dismissed vide order dated 12.09.2022 (Annexure P-11).

Broad arguments of the learned counsel for the petitioner is that had he been absent with some *mala fide* reasons, within a short span of period, he would not have returned to Court for moving the application for anticipatory bail. Learned counsel further contends that still, if one opportunity is granted to the petitioner to appear and then to grant him bail, subject to payment of some cost, he would undertake that in all the future proceedings of the present case, will never be absent from the Court except on obtaining prior permission by the Court and will fully cooperate during the Court proceedings.

Notice of motion.

On asking of the Court, Mr. J.S. Arora, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

A copy of the complete paper book has been supplied to him by learned counsel for the petitioner.

Learned State counsel opposes the request of the petitioner, and submits that petitioner does not deserve any sympathy, because, he is involved in serious offence under the NDPS Act and otherwise also, he has misused the concession of bail granted by the trial Court. Learned State counsel further submits that looking at his behaviour, there is no surety that in future petitioner would not be absent for the purpose of delaying the trial.

Be that as it may, paramount consideration of the Court is to

secure presence of accused on each and every date for speeding up the trial for its final conclusion. Already Courts are flooded with so much litigations, resulting in slow pace of work, because of more than one reason. The required energy and manpower be used for expediting the proceedings of the Court, instead of running after the accused persons to get hold of them.

After considering the submissions of both the sides and perusing the relevant material available on record, especially looking at the fact that recovery in the present case is only 105 grams of Charas and considering this aspect probably, he was granted bail by the court below. It also cannot be left unnoticed that within two months of the absence from the Court, petitioner has again shown inclination to submit himself to the court by way of moving an anticipatory bail application before the trial Court.

Therefore, in the totality of circumstances, I am of the view that if petitioner is given one chance to appear before the trial Court, subject to payment of Rs.10,000/- as costs, to be deposited with the District Legal Services Authority Pathankot, purpose of securing his presence would be served and lot of exercise, time and energy can be saved.

Therefore, it is directed that if petitioner on his own appears before the learned trial Court on or before 28.09.2022, he would be released on bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

In view of above, the present petition is allowed. However, it is made clear that the bail order would be subject to the deposit of an amount of Rs.10,000/- to be deposited with the District Legal Services Authority,

Pathankot.

Needless to mention here that on compliance of all the conditions mentioned hereinabove, impugned orders dated 26.07.2022, 22.08.2022, 12.09.2022 (Annexures P-8 to P-10) would become inoperative *qua* the petitioner.

(SANJAY VASHISTH)
JUDGE

September 19, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*