

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

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**CRM-M-44398-2022
Decided on : 28.09.2022**

Gobind Singh @ Billa

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Barjinder Singh, Advocate
for the petitioner(s).

Mr. JS Arora, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., petitioner is seeking quashing of order dated 03.03.2022 (Annexure P-8), passed by Ld. Judge Special Court, Kapurthala, in case FIR No. 63, dated 10.04.2017, under Section 22 of the NDPS Act, 1985, registered at P.S. Sultanpur Lodhi, District Kapurthala, vide which, the bail granted to the petitioner is cancelled and non-bailable warrants of arrest has been issued on account of non-appearance on 03.03.2022.

Learned counsel for the petitioner submits that recovery from the petitioner was of 55 grams of intoxicant powder, and in the absence of any FSL report, at the first instance vide order dated 10.05.2017 (Annexure P-2), petitioner was granted interim bail by the Ld. Special Court, Kapurthala. Subsequently, it was found that recovered contraband is Alprazolam salt, which falls under the category of non-commercial quantity. Thereupon, the interim bail so granted to the petitioner vide order dated 10.05.2017, was confirmed by the Ld. Special Court, Kapurthala, vide order dated 29.04.2019 (Annexure P-3).

Learned counsel for the petitioner further submits that report under Section 173 Cr.PC, was submitted on 14.09.2017, and thereafter, petitioner was appearing on each and every date of hearing as fixed by the Ld. Trial Court. He further submits that it was his first default on 03.03.2022 that for some reasons, as explained in the petition, petitioner could not appear and his bail was cancelled by issuing non-bailable warrants and notice under Section 446 Cr.PC was issued to his surety. Learned counsel submits that petitioner is a handicapped person suffering Locomotor disability to the extent of 70% and has also given the reasons in paragraph 7 of the present petition, which says as under:-

*“7. That the petitioner is a handicapped person suffering from 70% Locomotor disability. The true copy of the unique disability I.D. Card issued to the petitioner is annexed herewith as **Annexure P-7**. The petitioner called his counsel on phone on 13.01.2022 to ascertain the next date and the counsel had informed the petitioner to verify the date later. However, the petitioner took down the wrong date and on account of noting down wrong date the petitioner could not appear before the Ld. Trial Court on 3.3.2022 on the said date the Ld. Trial Court cancelled the bail order and bail bonds of petitioner and issued his NBW's. The true copy of impugned order is annexed herewith as Annexure P-8.”*

In view of the aforementioned background, learned counsel further contends that, if one opportunity is granted to the petitioner to appear and then to grant him bail, subject to payment of some cost, he undertakes that in all the future proceedings of the present case, he will never be absent from the Court except on obtaining prior permission by the Court and will

also fully cooperate in the Court proceedings for early completion of trial.

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 such accused persons, who have already been extended the concession of bail, in such serious matters and are still misusing the said concession, does not deserve any sympathy. Therefore, learned State counsel argues that the order dated 03.03.2022 (Annexure P-8), is as per law, and should not be interfered with, and petitioner should be directed to surrender before the Court to face trial

I have heard learned counsel for the parties and perused the relevant material on record.

On pointing out by learned counsel for the petitioner, fact has been noticed that after initial grant of interim bail on 10.05.2017 and submission of challan on 14.09.2017, petitioner never misused the concession of bail and for all these about five years, petitioner has been continuously appearing before the Ld. Trial Court. There is nothing available on record to show that trial has prolonged only because of the fault of the petitioner. Moreover, the reasoning given in paragraph No.7 of the present petition if believed to be true, it appears to be undisputed fact that petitioner is already suffering with Locomotor disability to the extent of 70%.

Besides above, in the back drop of the aforementioned facts and circumstances and submissions recorded hereinabove, I am of the view that one opportunity can be granted to the petitioner subject to payment of some

cost, to be deposited with the District Legal Services Authority, Kapurthala for the purpose of securing his presence and speeding up the trial, which is pending since long.

Therefore, it is directed that if petitioner on his own appears before the Ld. Trial Court on or before 12.10.2022, 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.

On seeing the disability of the petitioner, a lenient view is taken by imposing a cost of Rs.5,000/-. However, it is made clear that the concession of grant of bail would be subject to the deposit of an amount of Rs.5,000/- with the District Legal Services Authority, Kapurthala.

Needless to mention here that on compliance of all the conditions mentioned hereinabove, impugned order dated 03.03.2022 (Annexure P-8) and the subsequent orders would become inoperative *qua* the petitioner.

(SANJAY VASHISTH)
JUDGE

September 28, 2022

J.Ram

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