

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

CRM-M-45064-2022

Date of decision: 28.09.2022

Sanjay Kumar

...Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ravi Malhotra, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Through this petition, the petitioner seeks quashing of the order dated 02.08.2022 (Annexure P-3) passed by learned Judge, Special Court, Ludhiana, whereby warrant of arrest was issued against the petitioner, cancelling his bail, in case bearing FIR No.205 dated 03.10.2020, registered at Police Station Division No.2 Ludhiana, under Section 20 NDPS Act.

Learned counsel for the petitioner contends that vide order dated 17.12.2020 passed by learned Judge, Special Court, Ludhiana, the petitioner had been granted the benefit of regular bail; that the petitioner had been regularly appearing before the trial Court; that on 29.04.2022, the petitioner could not appear before the trial Court and his application seeking exemption from personal appearance was allowed; that however, his counsel had unintentionally informed him the next date of hearing as 22.08.2022, instead of 02.08.2022; that due to the aforesaid reason, the petitioner absented himself from the court proceedings on the date fixed i.e. 02.08.2022, following which his bail was cancelled and warrant of arrest had been issued against him.

Learned counsel further contends that 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. Joginder Pal Ratra, Sr. DAG, Punjab, accepts notice on behalf of the respondent-State, and submits that the trial Court has rightly issued warrant of arrest against 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 desire to appear before the Court, then it would be justified to protect him from being arrested.

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 the petitioner to custody.

Keeping in view the above fact, the impugned order dated 02.08.2022 (Annexure P-3) is 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, Ludhiana. 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.

28.09.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No