

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

**CRM-M-45331-2022
Date of Decision: October 10, 2022**

Harpreet Singh @ Happy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Amit Arora, Advocate,
for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab,
for the respondent-State.

SANJAY VASHISTH, J.

By way of present petition, petitioner seeks quashing of impugned order dated 31.08.2022 (Annexure P-3), passed by learned Additional Sessions Judge-cum-Judge, Special Court, Tarn Taran, whereby order dated 26.11.2019 (Annexure P-2), granting bail to the petitioner stands cancelled; bail bonds and surety bonds have been ordered to be forfeited to the State; and non-bailable warrants were issued. It has also been ordered that separate proceedings under Section 446 Cr.P.C. be initiated against surety.

Learned counsel for the petitioner submits that petitioner is facing trial in case, bearing No. 'NDPS-143/2020, dated 04.06.2020, titled as "State v. Harpreet Singh", arising out of FIR No. 73, dated 01.11.2019, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Kacha Pacca, District

Tarn Taran (Annexure P-1). Learned counsel further submits that in the present case, 7 grams of Heroin was got recovered from the petitioner, which is marginally above to the small quantity, i.e. 5 grams.

Learned counsel further submits that on account of absence of the petitioner before Court on 31.08.2022, the aforementioned impugned order has been passed. It was petitioner's first default since the time of registration of FIR, otherwise on all the dates he had been appearing before the Court. Learned counsel also submits that on account of noting down of wrong date, as explained in paragraph No. 13 of the present petition, petitioner could not appear on 31.08.2022. Paragraph No. 13 of the petition says as under:-

“13. That in fact inadvertently the petitioner noted down the next date of hearing as 20.9.2022 instead of 31.8.2022 and accordingly due to his non appearance on 31.8.2022 his bail orders stands cancelled and he has been ordered to be summoned through nonailable warrants of arrest. That the following orders were passed on 31.8.2022:

NDPS 143-20 State vs Harpreet Singh

*Present: Shri Harmanjot Singh, Addl. PP
for the State.*

Accused absent.

Accused Harpreet Singh has absented from the court without any intimation. Nobody has appeared on behalf of accused either. Case called several times since morning, it is already 3:30 P.M. In these circumstances, bail order of the accused is cancelled. His bail bonds and surety bonds are also cancelled and forfeited to the State. Let, accused be summoned through nonailable warrants of arrest for 23.09.2022. Separate proceedings under Section 446 Cr.P.C. be

initiated against surety and notice to surety for that date also be issued.

*(Kawaljit Singh)
ASJ/T.T/UID-PB0155*

Date of Order 31.08.2022

That the copy of impugned order dated 31.8.2022 passed by learned Judge Additional Sessions Judge cum Special Court, Tarn Taran is annexed herewith as Annexure P-3.”

Learned counsel for the petitioner further submits that had there been any malafide to delay the trial, petitioner won't have approached the Court by way of present petition, seeking redressal against the impugned order.

Notice of motion.

Mr. Anmol Singh Sandhu, Assistant Advocate General, Punjab, who is present in the Court, accepts notice. Complete copy of the paper book has already been supplied to him.

Learned State counsel opposes the present petition by submitting that the petitioner does not deserve any sympathy because he is involved in a serious offence under the NDPS Act and he has misused the concession of bail, which was granted by the Court.

After hearing both the sides and perusing the record, I find that the impugned order of cancelling bail was passed on 31.08.2022 and the petitioner has approached this Court without causing much delay. This itself is sufficient to believe his stand of noting down of wrong date, as explained in paragraph No. 13 of the present petition.

Depriving the petitioner from appearing before Court to face

trial, may further cause delay in completion of trial and that will burden the Court unnecessarily. Even otherwise, paramount consideration of the Court is to secure presence of the accused and to speed up the trial. Therefore, it would be appropriate to grant one opportunity to the petitioner to appear before the trial Court as also to grant him concession of bail, in case he appears before the concerned Court.

In view of submissions made by learned counsel for the petitioner and reasoning recorded here above, this petition is allowed. Petitioner is directed to appear on or before 01.11.2022, i.e. next date already fixed before the trial Court and furnish an undertaking that he would not repeat such default and would join Court proceedings on each and every date, except with prior permission of the court.

It is further ordered that in case petitioner appears before the learned trial Court within time given, he would be released on bail, subject to furnishing bail/surety bonds to the satisfaction of the Court concerned.

Needless to mention here that once petitioner complies with the conditions detailed here above, impugned order dated 31.08.2022 (Annexure P-3), would become inoperative.

(SANJAY VASHISTH)
JUDGE

October 10, 2022

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Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**