

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

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CRM-M-48122-2022 (O&M)

Date of decision: 17.10.2022

SHINDA SINGH

....Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rakesh Kumar, Advocate
for the petitioner.

Mr. Manipal Singh Atwal, DAG Punjab.

AMAN CHAUDHARY. J. (ORAL)

Present petition has been filed for quashing of order dated 07.07.2022 (Annexure P-4), whereby bail bond of the petitioner has been cancelled in FIR No.275 dated 06.10.2021 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sultanpur Lodhi, District Kapurthala.

Learned counsel contends that the present FIR under the NDPS Act was lodged against the petitioner. He submits that the petitioner had co-operated in the investigation and after challan having been presented, he was granted regular bail vide order dated 08.11.2021. He further submits that the petitioner had appeared on each date of hearing, as is reflected from Annexures P-2 and P-3. He further submits that it is only on 07.07.2022, that the petitioner was unable to appear to due to misunderstanding on account of wrong date having been noted, consequent thereto, non-bailable warrants were issued for his arrest vide order of even date Annexure P-4. It is his further submission that his absence was neither deliberate nor intentional and the petitioner seeks just one opportunity to appear before the trial Court and surrender for him to join the proceedings, which may

even subject to costs. In support of his arguments learned counsel for the petitioner relies upon judgment of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of “**Surjit Singh Vs. State of Punjab**” and CRM-M-39000-2022, titled as '**Raghav vs. State of Punjab**', decided on 9.9.2022.

Notice of motion.

Mr. Manipal Singh Atwal, DAG Punjab accepts notice and submits on instructions from Gurdial Singh that the impugned order has been rightly passed by the learned trial Court on account of non-appearance of the petitioner and further submits that there are three more FIRs against the petitioner.

Heard learned counsel for the parties.

The very purpose of issuance of non-bailable warrants, is to secure the presence of the accused to face trial and establish the rule of law so as to ensure finalization of the proceedings.

The present petition has been filed on 07.10.2022, prior to the date for which the non-bailable warrants have been issued i.e. 30.12.2022, which reflects the bona fide of the petitioner inasmuch as that he is keen to join the proceedings.

The explanation offered by the petitioner for his non-appearance in this case before the trial Court seems to be justified. It cannot be construed as a deliberate and willful absence.

This Court in **Major Singh Vs. State of Punjab**, CRM-M-3649-2022, decided on 15.9.2022, in somewhat similar circumstances, while setting aside the order, observed thus:

“This Court while noticing the bonafide of the petitioner; explanation given for his absence being justified; the object to be achieved being to secure the presence of the petitioner in the proceedings; expedition of trial and its early culmination being

in the interest of the parties; in order to meet the ends of justice; judgments referred to above being applicable to the instant case, is allowing this petition, though deeming it appropriate to impose certain conditions for meticulous adherence at the hands of the petitioner.

*In view of the forgoing conclusion and in the peculiarity of the facts and circumstances of the case, as also held by the Coordinate Bench of this Court in the cases of **Naveen Rao** (supra) and **Dimple Kumar** (supra) and in the interest of justice, the impugned order dated 19.7.2022, Annexure P5, is hereby set aside.”*

In view of the facts and circumstances of this case and the judgments referred to above, the impugned order dated 07.07.2022 (Annexure P-4), is set aside, subject to deposit of Rs.5,000/- with the **High Court Lawyers Welfare Fund, Chandigarh**. The petitioner is directed to surrender before the trial Court on or before 04.11.2022, before the trial Court and furnish his fresh bail/surety bonds. On doing so, the trial Court shall release him on bail by imposing heavy surety to its satisfaction. He is also directed to furnish an undertaking by way of his affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court.

Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

October 17, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>