

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48811-2022
Date of Decision: October 20, 2022

Mangat Ram

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: None.

SANJAY VASHISTH, J.

1. Members of the Bar are abstaining from work today.

2. Present petition, under Section 438 Cr.P.C., has been filed seeking anticipatory bail in case FIR No. 118, dated 20.12.2017, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar, Abohar, District Fazilka.

3. Recovery in the present case, from the petitioner was 150 loose tablets and 150 Zolpidem tablets. Thus, said recovery from the petitioner was of non-commercial quantity. On 24.01.2018, petitioner was granted interim bail, which was subsequently made absolute. This way, as per averments in the present petition, petitioner was on bail in the said case.

4. In paragraph No. 3 of the present petition, it is pleaded that from 15.02.2019, case was adjourned for various dates before trial Court, i.e. 12.04.2019, 09.07.2019, 09.08.2019, 25.09.2019, 15.11.2019, 06.02.2020, 16.03.2020, 14.05.2020, 26.08.2020, 21.10.2020,

25.11.2020, 01.02.2021, 16.03.2021, 18.05.2021, 17.09.2021, 24.01.2022 and 29.07.2022, for the purpose of prosecution evidence and only PW-1 and PW-2 were examined on 09.08.2019 and 06.02.2020 respectively. It is claimed that petitioner kept on appearing before Court on each and every date, except for once on 29.07.2022, when he could not attend court proceedings, inasmuch as, on that day he had to rush to Abohar, while taking his father to hospital, who was having problem of kidney stone. It is further explained that due to network issues in the village, petitioner could not contact his counsel and communicate about his absence from court on 29.07.2022. Resultantly, learned Judge, Special Court, Fazilka, vide order dated 29.07.2022 (Annexure P-2), while cancelling and forfeiting bail bonds & surety bonds to the State, ordered for summoning of petitioner through non-bailable warrants, for 21.11.2022.

5. Without there being any assistance from counsel of respective parties, this Court has examined the pleadings made in the present petition and gone through the documents attached therewith thoroughly. For the said purpose, since due to call of the Bar, no one is there to assist, this Court has taken some assistance from ASI Bhagwan Singh, who is present in the Court.

6. As stated in the petition, petitioner was already on bail and was appearing in the court continuously since beginning. As noticed above, after registration of the case in the year 2017, petitioner has been appearing before the Court and was absent on 29.07.2022, when his bail

was cancelled.

7. Though petitioner has not challenged the sanctity of order dated 29.07.2022 (Annexure P-2), yet to secure presence of accused at the earliest before the trial Court for early disposal of the case, this Court has gone into the other details also.

8. Paramount consideration of the Court is to secure presence of the accused and to proceed with the case to complete the proceedings at the earliest. Details given in paragraph No. 4 of the present petition, also gives an impression that after cancellation of bail on 29.07.2022, petitioner approached to the trial Court itself, but the plea was not accepted and vide order dated 02.09.2022 (Annexure P-3), concession of bail was declined. From the said aspect, this Court assumes logically that intention of the petitioner is not to run away from the proceedings, but to appear before the Court to join the proceedings. For the said purpose, there is no need to go into truthfulness of the details or reasons of his absence, as mentioned in paragraph No. 3 of the present petition.

9. In view of the totality of circumstances and considering the fact that the case is not finalized yet, despite of its registration with the police on 20.12.2017, I consider that once again reasonable chance should be given to the petitioner to check his bonafide, so that proceedings of the trial can be completed in the coming time at the earliest.

10. Petitioner is directed to appear before the learned trial Court/Illaq Magistrate/Duty Magistrate on or before 05.11.2022 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.

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

12. Needless to mention here that once petitioner complies with the conditions detailed here-in-above, order dated 29.07.2012 (Annexure P-2), would become inoperative qua the issuance of non-bailable warrants against the petitioner.

13. Petition stands disposed of in the above terms.

(SANJAY VASHISTH)
JUDGE

October 20, 2022

P Kapoor

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