

In the High Court of Punjab and Haryana at Chandigarh

124

CRM-M-53792 of 2022

Date of Decision: 21.11.2022

Jaswinder Singh @Rinku

---Petitioner

versus

State of Punjab

---Respondent

Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sahil Vashishat, Advocate
for the petitioner
Mr. Amish Sharma, AAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

Through instant petition under Section 482 of Code of Criminal Procedure, 1973, the petitioner is seeking quashing of order dated dated 16.08.2022 passed by Judge Special Court, Ludhiana whereby bail bonds/surety bonds of the petitioner were cancelled in FIR No. 112 dated 21.5.2018, under Sections 22 of NDPS Act, 1985 registered at Police Station Dugri, Ludhiana.

Learned counsel for the petitioner submits that the petitioner was granted regular bail by Judge Special Court, Ludhiana and regularly appearing before the trial court but could not appear before the trial court on 16.8.2022 due to fever. Recovery from the petitioner was 80 gms of heroine which is non-commercial quantity. The petitioner is ready to face trial and undertakes to appear before the court on each date. He is not involved in any other case. The petitioner is ready to pay costs for wasting time of Courts.

Notice of Motion.

On the asking of the Court Mr. Amish Sharma, AAG, Punjab, who is present in Court, accepts notice on behalf of respondent-State and fairly does not

dispute the facts, however, prays for imposition of costs.

Intent of arrest and reason of denial of bail is to secure the appearance of the accused at the time of trial. A person who seeks to be liberated must take judgment and serve sentence in the event of his conviction. The nature of the crime charged, severity of punishment prescribed, prime facie available evidences, history & background of the accused may indicate that any amount of bond and surety is not going to secure presence of accused, at the time of conviction.

The object of arrest is neither punitive nor preventive. Detention or arrest not only deprives a person from his fundamental right of personal liberty guaranteed by article 21 but also freedom guaranteed by article 19(1) of our Constitution. Life of every human being is most precious gift of God and everyone has very limited span of life which cannot be spoiled on account of incompetence, personal grudge, vengeance of someone; or brutal, illegal, unethical action of the State machinery. Except habitual offender, commoners living simple life after arrest lose self-respect and confidence within himself as well State. It has become very common to put criminal law in motion even though dispute involved is purely contractual or civil in nature. Many times arrest entails deprivation of source of income of entire family besides forever stigma in a closely knit society like ours. There is neither mechanism to compensate a man who is later on found innocent nor acquittal can return valuable time, energy, status, future of family members especially children which is lost on account of incarceration of bread earner of the family. Imprisonment before conviction is a sort of punishment especially when rate of conviction in our country is abysmally low.

Keeping in mind:

(i)The petitioner was granted concession of bail vide order dated 26.7.2018 (Annexure P-2) passed by Judge Special Court, Ludhiana;

(ii)The petitioner was found involved in non-commercial quantity;

(iii)The Petitioner is ready to face proceeding and co-operate;

(iv)The petitioner is resident of Ludhiana and FIR is pending at Ludhiana, thus jurisdictional court and police authorities have direct access over the activities of the petitioner;

(v) the petitioner is ready to pay costs of Rs. 10,000/-

this court is of the considered opinion that present petition needs to be allowed, and accordingly, petition is allowed. The petitioner is directed to appear before learned Trial Court on 29.11.2022 and furnish fresh bail bonds. The petitioner, as agreed, shall pay costs of Rs. 10,000/- to be paid to the District Legal Services Authority, Ludhiana.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

21.11.2022
paramjit

Whether speaking/reasoned : Yes
Whether reportable : Yes/No