

242 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-55346-2022
Date of Decision: 08.12.2022

Sukhwant Singh @ Sukh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. H.P.S. Sidhu, Advocate
for the petitioner.

Mr. Subhash Godara, Additional A.G., Punjab
for the respondent/State.

HARSH BUNGER J. (ORAL)

Present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.163 dated 09.12.2021, under Section 21-B of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Patti, District Tarn Taran.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case and he has nothing to do with the alleged crime of recovery of 35 grams of *heroin*, which is a non-commercial quantity. It is further submitted that the petitioner was earlier admitted to bail vide order dated 11.01.2022 (Annexure P-2), passed by the learned Judge, Special Court, Tarn Taran, after which he had been regularly attending the Court proceedings, however on one date, i.e. 02.09.2022, he could not appear before the Court as he noted down the wrong date of hearing, consequently the learned trial Court cancelled the bail order of

petitioner and even his bail/surety bonds were also forfeited to the State,

vide order dated 02.09.2022 (Annexure P-3). Learned counsel submits that there was no intention on the part of the petitioner to delay the proceedings and his absence before the trial court was neither intentional nor deliberate but for the aforesaid reason. It is also stated that the next date before the trial Court is now fixed for 09.12.2022. He further submits that the petitioner is ready and willing to surrender before the trial Court and join the proceedings, if he is granted one opportunity to do so. Learned counsel further submits that the petitioner undertakes to appear on each and every date before the trial court and to abide by all the terms and conditions to be imposed by this Court or by the trial Court.

Learned State counsel submits that since the petitioner has jumped the bail and has not followed the conditions of bail, hence the petitioner does not deserve the concession of bail and the present petition is liable to be dismissed.

I have heard the arguments of learned counsel for the petitioner as well as learned counsel for the respondent-State and have also perused the paper book as well as order dated 02.09.2022 (Annexure P-3).

A perusal of order dated 02.09.2022 (Annexure P-3), reflects that the trial Court proceeded to pass the said order on account of absence of petitioner on one date i.e. 02.09.2022; after grant of bail. At times, the accused or his counsel can be prevented by sufficient reasons to put an appearance before the Court on a given date and every such absence cannot be necessarily construed as a deliberate and willful absence.

The petitioner was already granted bail and was regularly appearing before the trial Court but only on one date, i.e. 02.09.2022, he could not appear due to noting down of the wrong date. Moreover, the

petitioner is ready and willing to surrender and join the proceedings and also to abide by all terms and conditions to be imposed by this Court or by the trial Court.

Without commenting anything on the merits of the case, the present petition is disposed of and the petitioner is directed to appear before the learned trial Court on 09.12.2022 and upon his appearance, the Court shall release him on bail subject to his furnishing fresh heavy bail bonds/surety bonds to its satisfaction and on payment of costs of Rs.5,000/-, to be deposited by the petitioner, with the Government Treasury. The petitioner shall also give his undertaking by way of affidavit before the trial Court that he will attend the Court proceedings regularly unless specifically exempted by the Court. He shall also abide by all the conditions as envisaged under Section 438(2) Cr.P.C.

At the time of release of the petitioner, concerned Station House Officer shall be informed. The petitioner shall furnish his mobile number to the SHO concerned, keep his mobile's location on and also appear in the concerned Police Station on every Monday till the conclusion of the trial.

In case, the petitioner does not appear before the trial Court till 09.12.2022 then the instant petition shall be deemed to have been dismissed.

Disposed of in the abovesaid terms.

08.12.2022

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No