

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(117)

CRM-M-56644-2022

Date of decision: - 06.12.2022

Ishan

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Rajesh Kapila, Advocate
and Ms. Himani Kapila, Advocate,
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 11.10.2022 (Annexure P-4), whereby the Additional Sessions Judge, Ludhiana, vide which the bail bonds and surety bonds of the petitioner were ordered to be forfeited to the State and non-bailable warrants have been issued against the petitioner in FIR No.95 dated 10.05.2018, under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985, registered at Police Station Samrala, District Khanna.

Learned counsel for the petitioner has submitted that the petitioner was granted the concession of regular bail vide order dated 05.06.2018 (Annexure P-2), by the learned Judge Special Court, Ludhiana. It is further submitted that on 06.08.2022, the petitioner could

not appear as he was suffering from fever and had moved an application for exemption, which was allowed. It is also submitted that on 11.10.2022, there was a family function in the family of the petitioner and an application seeking exemption from personal appearance was moved, however, the same had been rejected and the impugned order had been passed. It is stated that on the said date, no witness of the prosecution was present and thus, the trial has not been delayed on the said account. It is also submitted that the petitioner undertakes to appear before the trial Court within a period of two weeks from today and also on each and every date thereafter before the trial Court, unless his personal appearance is specifically exempted by the trial Court. Since, the purpose of issuance of warrants of arrest is to secure the presence of the accused, thus, the interest of justice would be met, in case, the impugned order is set aside and the petitioner is directed to appear before the trial Court.

Notice of motion.

On advance notice, Mr. Tarun Aggarwal, Sr. DAG, Punjab, appears and accepts notice on behalf of the respondent and has submitted that he is fully prepared to argue the matter and assist this Court. He has opposed the present petition and has submitted that the petitioner was aware about the above-said date and his non-appearance on 11.10.2022 was intentional and the impugned order has been rightly passed.

This Court has heard the learned counsel for the parties and has perused the paper-book.

The petitioner was granted the concession of regular bail vide order dated 05.06.2018 (Annexure P-2) and thereafter, he had been

appearing regularly before the trial Court and on 06.08.2022, the petitioner could not appear as he was suffering from fever and had moved an application for exemption, which was allowed. On 11.10.2022, as there was a family function in the family of the petitioner and an application seeking exemption for personal appearance was moved, however, the same had been rejected, thus, the impugned order had been passed. A perusal of the order dated 11.10.2022 would show that no witness of the prosecution was present before the Court on the said date. The petitioner has undertaken to appear before the trial Court within a period of two weeks from today and also on each and every date thereafter, before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the impugned order dated 11.10.2022 (P-4) to the extent that the bail order of the present petitioner has been cancelled and his bail bonds/surety bonds have been forfeited to the State and non-bailable warrants have been issued and notice has also been issued to the surety of the petitioner, is set aside, subject to the petitioner appearing before the trial Court within a period of two weeks from today and on his appearance, the trial Court is directed to release the petitioner on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court. The same would also be subject to the petitioner depositing an amount of Rs.5,000/- with the 'Punjab and Haryana High Court Employees' Welfare Association Fund' and would also be subject to the petitioner giving an undertaking to the trial Court that he would

appear before the trial Court on each and every date unless his personal appearance is specifically exempted by the Court.

It is, however, clarified that in case, the abovesaid conditions are not complied with within the stipulated time period, then the present petition would be deemed to have been dismissed.

December 06, 2022
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No