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

CRM-M-59577-2022

Date of decision : 21.12.2022

Gurpreet Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arnav Sood, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the second petition filed under Section 482 of Cr.P.C. for quashing/setting aside the order dated 21.10.2022 (Annexure P-4) passed by the Additional Sessions Judge, Hoshiarpur in FIR No.153 dated 29.08.2022 registered under Sections 22/61/85 of the NDPS Act at Police Station Garhshankar, District Hoshiarpur vide which the bail order of the petitioner has been cancelled and his bail bonds have been cancelled and forfeited to the State.

Learned counsel for the petitioner has submitted that the petitioner was granted interim bail vide order dated 04.10.2022 and a perusal of said order would show that it was prima facie found that the alleged recovery effected from the petitioner was of 60 grams of intoxicant

powder and thus, the same is less than commercial quantity but however, since, the FSL report had not been submitted therefore only interim bail was granted to the petitioner. It is further submitted that thereafter, the petitioner did not appear on 21.10.2022 as he had wrongly noted the date as 21.11.2022 and on 21.11.2022, when the petitioner had gone to enquire about his case, he learnt that order dated 21.10.2022 had been passed and his bail order and bail bonds had been cancelled and non-bailable warrants had been issued against him. It is contended that the petitioner had thereafter filed CRM-M-58223-2022 which was withdrawn on 14.12.2022 with liberty to file a fresh one after giving full and better particulars and thus, the present second petition has been filed after giving full and better particulars and after annexing all the relevant zimni orders. It is further contended that on the date, when the petitioner could not appear, no witness of the prosecution was present and the case is now fixed for 23.12.2022. It is argued that the petitioner undertakes to appear before the trial Court within a period of 10 days from today and to give an undertaking to appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court. It is further argued that the petitioner is ready to pay an amount of Rs.7000/- to the High Court Lawyers' Welfare Fund. It is also submitted that FSL report has not been received as yet. It is further contended that after the receipt of FSL report, he would seek the remedy available to him in accordance with law.

On the other hand, learned State Counsel has opposed the present petition and has submitted that the petitioner was aware of the said date and had not appeared intentionally and thus, the impugned order had

been rightly passed by the Court. He, on instructions from ASI Lakhbir Singh, has stated that the FSL report has not been received in the present case as yet.

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

In the present case, the petitioner was granted interim bail vide order dated 04.10.2022. Thereafter, the petitioner did not appear on 21.10.2022 as he had noted a wrong date i.e., 21.11.2022 instead of 21.10.2022 and on 21.11.2022, when the petitioner had gone to enquire about his case, he learnt that order dated 21.10.2022 had been passed and his bail order and bail bonds had been cancelled and non-bailable warrants had been issued against him. The petitioner thereafter filed petition bearing No.CRM-M-58223-2022 which was withdrawn on 14.12.2022 with liberty to file a fresh one after giving full and better particulars and thus, the present second petition has been filed after giving full and better particulars and after annexing all the relevant zimni orders. No prosecution witness was present on the date when the petitioner failed to appear before the trial Court. The petitioner now undertakes to appear before the trial Court within a period of 10 days from today and to give an undertaking to appear on each and every date before the trial Court unless his personal appearance is specifically exempted by the trial Court.

Keeping in view the abovesaid facts and circumstances, the present petition is allowed and order dated 21.10.2022 is set aside subject to the petitioner appearing before the trial Court within a period of 10 days from today and on his appearance, the trial Court is directed to release the

petitioner on interim bail in terms of order dated 04.10.2022 passed by the Judge, Special Court, Hoshiarpur. The same would also be subject to the petitioner depositing an amount of Rs.7000/- within the stipulated time with High Court Lawyers' Welfare 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 within the stipulated period, then the present petition would be deemed to have been dismissed.

21.12.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**