

115 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8483-2023

DATE OF DECISION:-17.02.2023

Gurcharan Singh

...Petitioner.

vs.

State of Punjab

...Respondent..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Zubin Chhura, Advocate,
for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

HARKESH MANUJA, J. (Oral)

By way of present petition filed under Section 482 Cr.P.C., prayer has been made for setting aside of order dated 30.09.2022 passed by Special Judge, Kapurthala, whereby, the bail bonds of the petitioner were cancelled, surety bonds forfeited followed by issuance of non-bailable warrants against him.

The petitioner having been named as an accused in FIR No.124 dated 03.07.2021, under Sections 21/29 of NDPS Act, 1985, at Police Station Subhanpur, District Kapurthala, was granted regular bail by the Special Judge, Kapurthala vide order dated 16.08.2021. Challan was filed by the investigating agency on 27.05.2022, charges not framed so far.

During trial on 30.09.2021, on account of non-appearance of the petitioner, his bail bonds were cancelled and surety bonds were forfeited

followed by issuance of non-bailable warrants against him, vide order dated 30.09.2022, which has been impugned in the present petition.

Learned counsel for the petitioner submits that the non-appearance of the petitioner on the aforesaid date was neither intentional nor willful but happened on account of having noted down of wrong date. He further submits that the petitioner has been continuously appearing before the trial court on each and every date since the date of grant of bail in his favour and even undertakes to submit himself to the jurisdiction of trial court and to face trial.

On the other hand, prayer made has been opposed at the instance of learned State counsel, who submits that the petitioner is also involved in one another FIR No.95 dated 19.06.2021, under Section 21 of the NDPS Act along with Section 25 of the Arms Act at Police Station Bullowal, District Hoshiarpur and thus, prays for dismissal of the present petition.

I have heard learned counsel for the parties and perused the paper book. I find substance in the submissions made on behalf of the petitioner.

As per the records, petitioner was granted concession of regular bail vide order dated 16.08.2021 and since then he has been regularly appearing before the trial court on each and every date except for 30.09.2022, on which date, he could not appear before the trial court on account of having noted down a wrong date. Considering the conduct of the petitioner in the facts of the present case, there does not appear to be any reason to disbelieve him on the point of having noted down wrong date of hearing, which resulted into his non-appearance before the trial court.

With regard to pendency of other case bearing FIR No.95 dated

19.06.2021 against the petitioner, learned counsel for the petitioner has already informed this Court that the petitioner has been granted bail in that case by the Special Judge, vide order dated 14.07.2021.

In view of the facts and circumstances narrated herein-above and the fact that there is no inordinate delay on the part of the petitioner while filing the present petition, the impugned order dated 30.09.2022 passed by the trial court, is hereby set aside with the direction to the petitioner to surrender before the trial court and furnish his fresh bail bonds/surety bonds, to its satisfaction, within a period of two weeks from today.

The aforesaid order shall however be subject to payment of costs of Rs.10,000/- to be deposited with the Punjab and Haryana High Court Association Lawyer's Family Welfare Fund having Account No.41564846387 with State Bank of India, High Court Branch, Chandigarh, within a period of two weeks from today.

17.02.2023

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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No