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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-12817-2023 (O&M)

Date of decision: 03.08.2023

Narinderpal Singh

...Petitioner

VS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Dr.Sumati Jund, Advocate,
for the petitioner.

Mr.Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioner seeks quashing of order dated 03.10.2017 (Annexure P-5) passed by learned Additional Sessions Judge, Bathinda, in case FIR No.113 dated 12.09.2013 registered under Section 22 of Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPS Act'), at Police Station, Mour Mandi, Bathinda, whereby the petitioner was declared as a proclaimed offender.

2. Succinct facts first, as pleaded in the instant petition.

2.1 FIR in question was registered against the petitioner. After he being released on bail by learned trial Court, the petitioner kept on regularly appearing on each and every date of hearing before that Court. Thereafter, the petitioner was falsely roped in another FIR No.80 dated 06.07.2017, registered under Section 21 of the NDPS Act, at Police Station Shambhu, District Patiala and in this case he remained in custody for a period of 4 years, 3 months and 6 days w.e.f. 08.07.2017 to 11.10.2021, due to which in the present case/FIR he could not appear before learned Additional Sessions Judge, Bathinda. Resultantly, his bail bonds and surety bonds were cancelled by learned trial Court vide its order dated 10.07.2017 (Annexure P-4) and thereafter vide the impugned order dated 03.10.2017 (Annexure P-5), he was declared as a proclaimed offender.

3. Learned counsel for petitioner contends that default in appearance was due to circumstances beyond control, as aforesaid and not at all intentional. Resultantly, the

impugned order dated 03.10.2017 (Annexure P-5) is unsustainable in law.

4. Heard.
5. In the instant case, since the very purpose of initiating proceedings against petitioner under Section 82 Cr.P.C. was to ensure her presence before learned trial Court and petitioner is ready to give an undertaking before the Court that he will appear before the Court below as and when required, therefore, no useful purpose would be served to continue proceedings under Sections 82/83, *ibid*.
6. Concededly, petitioner at the time of being declared as a proclaimed Offender by the Court of learned Additional Sessions Judge, Bathinda, was confined in jail in another FIR bearing no.80, dated 06.07.2017, registered under Section 22 of the NDPS Act, at Police Station Shambhu, District Patiala.
7. That being so, it was beyond his control to present himself before learned Court below and the State/prosecution had sought the production warrants in accordance with law to produce the petitioner in Court.
8. Having not done so, on the other hand, declaring the petitioner as a proclaimed offender vide order impugned herein cannot be sustained, which is consequently set aside.
9. Consequently, petitioner be released on personal bond on his causing appearance before the Court below within three weeks from today, on his furnishing bail bonds to its satisfaction. Petitioner shall join proceedings before learned Court below and shall continue to appear without default during pendency of trial. Additionally, in case his arrest is required to be caused, the petitioner shall be released on bail by the Arresting Officer, on furnishing adequate bail and surety bonds to his satisfaction.
10. Disposed of accordingly.
11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

03.08.2023
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