

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

(123)

**CRM-M-13207-2023
DATE OF DECISION:-16.03.2023**

Sarwan Singh

...Petitioner

VS.

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. G. S. Verma, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Section 482 Cr.P.C., prayer has been made for quashing of the order dated 02.12.2022 (Annexure P-5) passed by the Special Court, Ludhiana, in case FIR No.222 dated 31.10.2018 under Section 15/61 of NDPS Act, registered at Police Station District Ludhiana.

In the present case, petitioner was implicated on account of alleged recovery of 15 Kg., of poppy husk in pursuance to registration of FIR No.222 dated 31.10.2018. When he was granted the concession of regular bail vide order dated 20.11.2018, he had been continuously appearing before the Court below, but for 02.12.2022, when he was medically indisposed, on account of his non-appearance the trial Court cancelled his bail bonds and forfeited his surety bonds followed by issuance of non-bailable warrants against him vide order dated 02.12.2022 which has been impugned by way of present petition.

Learned counsel for the petitioner submits that on 02.12.2022, the petitioner could not appear before the trial Court on account of his medical

condition as he had undergone a minor surgery on 29.11.2022 and remained hospitalized till 01.12.2022. Learned counsel further submits that petitioner had been continuously appearing before the trial Court and had no intention to evade the process of law. He further submits that in case, the petitioner is permitted to join the proceedings, he shall surrender before the Court concerned and furnish his bail bonds/surety bonds and shall even continue to appear on all subsequent dates.

On the other hand, prayer made herein has been opposed by the learned State counsel while submitting that the non-appearance of the petitioner was a deliberate attempt on his part so as to delay the proceeding.

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

A perusal of the medical discharge card issued from the Mittal Hospital, Ludhiana, shows that the petitioner was admitted in the hospital between 29.11.2022 to 01.12.2022 on account of minor surgery and thus, was unable to appear before the Court on the date fixed i.e. on 02.12.2022. From documents attached along with the record, one can trace out that non-appearance of the petitioner was for *bona fide* reasons and in fact was unintentional.

In view of the discussion made hereinabove, impugned order dated 02.12.2022 (Annexure P-5) is hereby set aside with a further direction to the petitioner to surrender before the trial Court on the next date of hearing fixed before it i.e. 24.03.2023 and furnish his bail bonds/surety bonds to the satisfaction of the trial.

However, the aforesaid order shall be subject to payment of costs of Rs.5,000/- to be deposited with the Punjab and Haryana High Court

Association Lawyer’s Welfare Fund having Account No.41564846387 with State Bank of India, High Court Branch, Chandigarh, within a period of two weeks from today.

Disposed of accordingly.

16.03.2023
anil

(HARKESH MANUJA)
JUDGE

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