

CRM-M-30331-2023 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30331-2023 (O&M)

Date of decision: July 07, 2023

Suraj @ Monu

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Ghulam Nabi Malik, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for quashing of an order dated 30.01.2023 (Annexure P-4), whereby learned Additional Sessions Judge, Panipat has cancelled the bail order of the petitioner and bail bonds were forfeited in the proceedings arising out of FIR No.617 dated 30.07.2022, under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Samalkha Panipat.

2. Notice of motion.

3. On the asking of Court, Ms. Svaneel Jaswal, Additional AG Haryana accepts notice and opposes the petition.

4. Petitioner was arrested on 30.07.2022. He was later granted the concession of regular bail by learned Additional Sessions Judge vide order dated 28.09.2022 (Annexure P-2).Challan was presented on 26.09.2022. After framing of charges, matter was listed first time for trial on 24.11.2022. Petitioner was personally present before learned Trial Court on that day when the case was adjourned to 30.01.2023 to await the FSL report. However, on the adjourned date i.e., on 30.01.2023, when the case was called out, petitioner was not present before learned Additional Sessions Judge. It is stated that inadvertently he noted wrong next date as 31.01.2023. On that very day i.e., 30.01.2023, warrants of arrest were ordered to be issued against the petitioner and bail of petitioner was also cancelled and his bail bonds were ordered to be forfeited to the State. Hence, the instant petition.

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5. Learned counsel for petitioner states that absence is not deliberate and is due to sheer inadvertence. Petitioner had noted wrong next date and that is why, he could not appear before learned trial Court on 30.01.2023. Even counsel representing him before the trial Court was of the view that case was fixed for 31.01.2023. Non-appearance of petitioner was thus neither intentional nor willful.
6. On the other hand, learned State counsel submits that learned trial Court rightly cancelled the bail of petitioner since he deliberately chose not to appear on the date fixed and violated the terms of bail bonds.
7. Heard.
8. No doubt, learned trial Court has got discretion to cancel the bail, however, it is well settled that before passing such an order, Court is required to issue notice to the accused so as to afford him an opportunity to explain as to why the bail should not be cancelled. Such course has not been adopted by learned Additional Sessions Judge in the instant case. On this ground alone, impugned order to the extent of cancellation of bail deserves to be set aside.
- 8.1. Moreover, cancellation of bail is a serious matter and can have significant impact on the life of a person. Matters of personal liberty ought not to be taken so lightly and in such mechanical manner as in the case herein.
9. In the premise, impugned order is set aside. Earlier bail order stands revived on bail bond and surety bond already furnished by petitioner before learned trial Court. Petitioner is directed to join proceedings before learned trial Court within three weeks from today and shall continue to appear before learned trial Court without default.
10. Petition is accordingly allowed.
11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 07, 2023

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No