

239

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-31385-2023 (O&M)

Date of decision: July 07, 2023

Mohammad Haras

...Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Sunny Kumar Singla, Advocate for petitioner.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petition herein is for quashing of an order dated 31.05.2023 (Annexure P-5), whereby learned Judge, Special Court, Sangrur has cancelled the bail order of the petitioner. Bail bonds were forfeited in the proceedings arising out of FIR No.185 dated 19.08.2022, under Sections 21, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station City-I, Malerkotla, District Sangrur.

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

2.1. In the aforesaid criminal case petitioner was granted interim bail by the Court of Ld. Judge, Special Court, Sangrur vide order dated 29.08.2022 (Annexure P-2). The interim bail was later made absolute vide order dated 08.09.2022 (Annexure P-3). Challan was presented on 09.03.2023. Matter was first time listed for trial on 31.05.2023. However, petitioner was neither informed by the investigating officer nor any notice was issued to him. Therefore, being unaware petitioner could not appear before court on 31.05.2023. Warrants of arrest were issued against the petitioner for his non-appearance and bail of petitioner was also cancelled and his bail bonds were ordered to be forfeited to the State. Hence, the instant petition.

3. Learned counsel for petitioner states that petitioner was not served any notice nor was he informed by the Investigating Officer. After confirmation of the anticipatory bail, petitioner was never informed by the counsel or by the investigating

Officer about the presentation of challan and the next date of hearing. Therefore, the petitioner failed to appear. Non-appearance of petitioner was thus neither intentional nor willful.

4. 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.

5. Heard.

6. 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 Judge, Special Court, Sangrur in the instant case. On this ground alone, impugned order to the extent of cancellation of bail deserves to be set aside.

7. 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.

8. 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.

9. Petition is accordingly allowed.

10s. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

July 07, 2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No