

119

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-32832-2023 (O&M)

Date of decision: 07.08.2023

Punjab Singh

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Sandeep Sharma, Advocate for petitioner.

Mr. Dhruv Dayal, Additional A.G., Punjab.

ARUN MONGA, J. (ORAL)

Petition herein is for quashing of order dated 20.03.2023 (Annexure P-3), whereby learned trial Court, has cancelled the bail order of the petitioner and bail bonds were forfeited to the State in the proceedings arising out of FIR No.68 dated 13.03.2019, registered under Sections 21, 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station, Jandiala, District Amritsar (Rural) and arrest warrants were issued against him.

2. Notice of motion.

3. On advance service of copy of petition, learned State counsel appears and accepts notice on behalf of the respondent-State of Punjab.

4. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. Nothing has been recovered from him and allegedly recovery of 55 loose intoxicant pills is a planted one. He further submits that petitioner was granted interim bail by learned Court below vide order dated 12.04.2019 to await the outcome of FSL Report. He further submits that there is one case/FIR registered under Section 61 of Excise Act, pending against petitioner in which he is on bail and he has not been declared a proclaimed offender.

4.1. He further submits that petitioner was facing trial regularly and attending the court proceedings since 2019. However, on 20.03.2023, petitioner and his counsel

could not appear due to wrong noting of date and straightaway his bail bonds and surety bonds were cancelled and non-bailable warrants were issued. Hence, the instant petition.

5. Learned counsel for petitioner states that absence of petitioner was not deliberate but was due to sheer inadvertence. The default in appearance was due to circumstances beyond control and not at all intentional. He further contends that non-appearance was neither willful nor intentional as he was regularly attending the trial from last around four years. However, without issuing any prior notice to the petitioner, learned trial Court erroneously cancelled the bail of the petitioner without thus giving an opportunity of being heard and then issued non-bailable warrants. Resultantly, the impugned order is unsustainable in law.

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. Arguments 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 accused an opportunity to explain as to why the bail should not be cancelled. Such course has not been adopted by learned court below in the instant case. In the peculiar premise, in my opinion, learned Court below has committed patent irregularity by not according an opportunity to accused/petitioner to explain his default by first issuing notice as to why his bail bonds be not cancelled. 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. There being sufficient reasons beyond control of the petitioner which caused his default on solitary date of hearing, I am of the view that impugned order cannot be sustained and same 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. However, it is made clear that any observations and/or submissions noted herein above shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant petition alone and learned trial Court shall proceed without being influenced with this order.

11. Petition is accordingly allowed.

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

(ARUN MONGA)
JUDGE

07.08.2023
Vandana

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No