

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

120

CRM-M-37480-2023 (O&M)
Date of decision: 02.08.2023

Gurtej Singh (@Goldy)

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Anil Kumar Ahluwalia, Advocate for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the present petition is of quashing of the order dated 21.02.2023, passed by the learned Special Judge (NDPS Act)-cum-Additional District Sessions Judge, Ludhiana, in case FIR No. 15 dated 28.01.2021 registered under Section 21 of the NDPS Act, at Police Station Doraha, District Ludhiana, vide which the bail bonds of the petitioner stands forfeited and non-bailable warrants have been issuance against the petitioner for his appearance.

Learned counsel for the petitioner submits that in the present case, after granting regular bail, the petitioner has been regularly appearing before the Court, but on 21.02.2023, he could not appear before the learned trial Court, as he was in custody from 15.02.2023 to 29.03.2023 in another case FIR No.24 dated 15.02.2023 registered under Section 21 of the NDPS Act, wherein regular bail was granted to him on 29.03.2023 and thus, the non-appearance of the petitioner on 21.02.2023 was not intentional; that the petitioner has not been declared a proclaimed offender till date and that the petitioner is ready to appear before the learned trial Court.

Notice of motion.

On the asking of this Court, Mr. C.L. Pawar, Addl. AG Punjab, accepts notice on behalf of the respondent-State and opposes the submissions made by the learned counsel for the petitioner.

I have heard the learned counsel for the parties.

It is a case, wherein, the petitioner had been regularly appearing before the Court, but he could not appear on a solitary date i.e. 21.02.2023, as he was in custody in another case and therefore, his non-appearance on the said date was unintentional.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments. The absence of the petitioner before the Court below appears to be non-intentional. If an accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is disposed of with a direction to the petitioner to surrender before the trial Court/Duty Magistrate, within 15 days from today, subject to him depositing the costs of Rs.10,000/- with the District Legal Services Authority, Ludhiana. On his doing so, the petitioner shall be released on anticipatory bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

(HARNARESH SINGH GILL)
JUDGE

02.08.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No