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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-37652-2023 (O&M)

Date of Decision: 03.08.2023

Shamsher Singh @ Shera

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Abhimanyu Tewari, Advocate, for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of order dated 19.04.2019 (Annexure P-4) and also order dated 06.07.2023 passed by the Additional District & Sessions Judge, Tarn Taran.

2. Learned counsel appearing on behalf of the petitioner has submitted that in the present case an FIR was registered against the present petitioner under Section 22 of the NDPS Act and the challan was presented before the learned Court on 06.12.2018. The petitioner was enlarged on bail and thereafter on some dates he could not present himself but his application for exemption was allowed and thereafter on 19.04.2019, he was again absent and his application for exemption was declined and his bail was cancelled. Bail bonds and surety bonds were forfeited to the State and he was ordered to be summoned through non-bailable warrants for

07.05.2019 vide impugned order dated 19.04.2019 (Annexure P-4). He submitted that thereafter he filed an application for grant of anticipatory bail before this Court and vide order dated 23.02.2022 (Annexure P-7), the counsel for the petitioner had made a prayer that in case the petitioner surrenders before the police within a period of 10 days and files an application for grant of regular bail after surrender, then the same may be decided as expeditiously as possible and preferably within a period of seven days and therefore, the petition was dismissed as withdrawn. However, it was directed that in case after surrendering before the police within a period of 10 days, the petitioner files an application for grant of regular bail, then the trial Court is requested to decide the same as expeditiously as possible and preferably within a period of seven days from the date of filing of the said application. Thereafter, vide Annexure P-8 dated 06.07.2023, proclamation proceedings were initiated against the petitioner. He submitted that the absence of the petitioner was not willful and therefore, the aforesaid orders are liable to be set aside.

3. I have heard the learned counsel for the petitioner.

4. The petitioner was earlier on bail but he repeatedly absented himself from the trial Court. A perusal of the order dated 19.04.2019 (Annexure P-4) would show that for two dates exemption application of the petitioner was allowed but still he did not come present in the Court after the presentation of challan and therefore his application for exemption was declined by the learned Additional Sessions Judge, Tarn Taran and bail was cancelled. It was on 19.04.2019 which is more than 4 years ago that the aforesaid order Annexure P-4 was passed and non-bailable warrants were

issued against the petitioner and till date he has not even surrendered before the Court. The impugned order (Annexure P-4) has been challenged after a delay of 4 years before this Court. It is not a case that the petitioner was not vigilant in his duties towards the Court for appearance but he rather choose to file petition for grant of anticipatory before this Court wherein he rather himself made a prayer that in case he surrenders within a period of 10 days, then his application for grant of regular bail may be considered as expeditiously as possible and consequently, a Co-ordinate Bench of this Court had rather observed that in case the petitioner surrenders before the police within a period of 10 days and he files an application for grant of regular bail, then the trial Court was requested to decide the same as expeditiously as possible and preferably within a period of seven days from the date of filing of such application. The aforesaid order was passed by a Co-ordinate Bench of this Court on 23.02.2022 vide Annexure P-7 but still the petitioner did not surrender before the Court and thereafter vide Annexure P-8 dated 06.07.2023, proclamation proceedings have been initiated against the petitioner since he did not surrender before the Court. After hearing the learned counsel for the petitioner, this Court is of the view that no leniency can be shown towards the petitioner in this regard and there is no ground available with the petitioner seeking setting aside of the orders Annexure P-4 and P-8.

5. Consequently, the present petition is dismissed.

03.08.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No