

CRM-M-42328-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42328-2023

Date of decision: 25.08.2023

SUKHCHAIN SINGH @ HAPPY

...Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Amit Choudhary, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

1. Challenge in the present petition is to the order dated 31.03.2023 (Annexure P-1) passed by learned Special Judge, Fatehabad, vide which bail of the petitioner has been cancelled in FIR No.314 dated 20.06.2022, registered at Police Station Sadar Fatehabad, District Fatehabad, under Section 18-B NDPS Act.

2. Learned counsel for the petitioner contends that after having been released on bail, the petitioner had been regularly appearing before this Court, and that on 31.03.2023, the petitioner could not appear and moved an application seeking exemption from his personal appearance before the Court, but the same was dismissed and his bail had been cancelled. It is further submitted that non-appearance of the petitioner was not intentional, but for the unavoidable reasons.

3. Notice of motion.

4. On the asking of this Court, Mr. Rupinder Singh Jhand, Addl.

A. G. Haryana, accepts notice on behalf of the respondent-State, and

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submits that the application seeking exemption from personal appearance of the petitioner was dismissed by the trial Court while noticing that he was involved in some other cases and he had intentionally absented himself from the court proceedings. It is further submitted that the impugned order has rightly been passed.

5. I have heard the learned counsel for the parties.

6. In the present case, the petitioner had been regularly appearing before the trial Court, but he could not appear on a solitary date i.e. 31.03.2023 for the reason that he had gone to Gujarat for labour work. The absence of the petitioner before the trial Court does not seem to be intentional.

7. 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 as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

8. The petitioner is now not required for any investigation or interrogation purposes and rather, he is only to face the trial. Therefore, no useful purpose would be served by sending him to custody.

9. Keeping in view the above fact, but without expressing any opinion on the merits of the case, the present petition is allowed and the impugned order dated 31.03.2023 (Annexure P-1) is set aside, subject to depositing the costs of Rs.10,000/- by the petitioner with the concerned District Legal Services Authority. The petitioner is directed to surrender

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before the trial Court/Duty Magistrate, within 15 days from today and on doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

25.08.2023
parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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