

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

116

CRM-M-42311-2023

Date of decision: 25.08.2023

Sukhchain Singh @ Happy

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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

AMAN CHAUDHARY. J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 03.05.2023, Annexure P-1, passed by learned Special Judge under NDPS Act, Fatehabad, whereby the bail of the petitioner stands cancelled and his bail and surety bonds were forfeited to the State in FIR No.337, dated 20.06.2022, registered under Sections 17(b), 27-A, 61 and 85 of NDPS Act, 1985, at Police Station City Fatehabad, District Fatehabad.

2. Learned counsel contends that the petitioner had been granted regular bail by the trial Court vide order dated 02.08.2022, Annexure P-3. The petitioner continued to appear regularly before the trial Court except on 03.05.2023, which was on account of the fact that he had gone to Gujarat being the driver of the combine harvester. Many applications for personal exemption were also filed stating the aforesaid reason, however, the same were declined and the bail and surety bonds were cancelled and forfeited to the State. Non-bailable warrants were issued for 24.05.2023. The absence of the petitioner is neither wilful nor deliberate and on account of the reason aforesaid. Further that he is ready and willing to join

the proceedings today itself, i.e. 25.08.2023 as the case is listed before the trial Court and restricts his prayer in the present petition only regards to grant of one opportunity to him to surrender before the learned trial Court even if the same is subject to costs. Reliance is placed on the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of **Surjit Singh vs. State of Punjab**, CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.9.2022.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Addl. AG, Haryana, who has appeared on receipt of advance copy of the petition, opposes the same by submitting that the impugned order is legal and valid and has been rightly passed by the trial Court on account of non-appearance of the petitioner.

5. Heard.

6. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

7. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent up on him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one

opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 03.05.2023, Annexure P-1 is set aside subject to surrender by the petitioner before the trial Court today itself i.e. 25.08.2023 and depositing Rs.5,000/- with the District Bar Association, Fatehabad. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

9. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

25.08.2023

Ankur

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No