

He submits that however, on 28.08.2023, he could not appear in the Court due to the reason that he had been falsely implicated in another case by the police and arrested on 24.08.2023 in case FIR No.119 dated 16.07.2023 under Sections 21(b) and 29 of the NDPS Act registered at Police Station Sadar, Jalandhar. By referring to the order dated 21.09.2023 (Annexure P-4), learned counsel for the petitioner submits that petitioner was granted bail by learned Special Judge in the aforesaid case.

3. He further contends that the absence of petitioner on 28.08.2023 was not intentional but due to the reason that he was in custody in case FIR No. 119 dated 16.07.2023, wherein, he was granted concession of bail only vide order dated 21.09.2023 (Annexure P-4).

4. He submits that petitioner, if granted the concession of bail, will regularly appear in the Trial Court on each and every date, without fail.

5. Notice of motion.

6. On the asking of the Court, Mr. Anmol Singh Sandhu, AAG, Punjab, present in Court, accepts notice on behalf of the State and submits that the impugned order dated 28.08.2023 (Annexure P-3) passed by learned Judge, Special Court Jalandhar is in accordance with law as neither the petitioner nor his counsel appeared before the Court on the said date and as such, learned Court had no other recourse except to cancel the bail and issue non-bailable warrants of arrest for procuring the presence of petitioner.

7. Heard.

8. After considering the respective submissions made by learned counsel for the petitioner as well as learned State counsel, this Court is of the view that admittedly, the petitioner had been facing trial in case FIR No.89 dated 27.05.2018 under Sections 21 and 22 of the NDPS Act registered at Police Station Sadar, Jalandhar (Annexure P-1) and was granted concession of bail. It is also not disputed that in the case titled as '*State of Punjab vs. Anthony alias Sabi*' in CIS No.NDPS/1527/2018 was pending trial for 28.08.2023 and on that day, neither the petitioner nor his counsel had put in appearance before the learned Trial Court, leading to learned Trial Court cancelling his bail and issuing non-bailable warrants of arrest for procuring his presence. However, it is worth mentioning that the absence of the petitioner on that date does not appear to be intentional due to the reason that it is evident from the perusal of order i.e. Annexure P-4 passed by learned Judge, Special Court Jalandhar while granting concession of bail to the petitioner in case FIR No. 119 dated 16.07.2023 at Police Station Sadar Jalandhar, that the petitioner was arrested in that case on 24.08.2023 and was granted concession of bail on 21.09.2023, thereby no fault could be attributed to the petitioner for his non-appearance before the Court on 28.08.2023.

9. Be that as it may, considering the aforesaid circumstances, once it is found that absence of the petitioner on the date fixed was not intentional but due to the reason that he was in custody in another case on the date fixed, the impugned order dated 28.08.2023 i.e. Annexure P-3 is hereby set aside and the petitioner is directed to appear in the Trial Court within 7 days from today and in that event, petitioner is ordered to be

released on bail to the satisfaction of concerned Court on his furnishing bail bonds and surety bonds. The petitioner will also furnish a specific undertaking that in future he will appear on each and every date of hearing without fail and only in case of extreme exigency he will seek prior exemption from the Court, which shall be considered in accordance with law. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.

10 Disposed of.

14.11.2023

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(SANJIV BERRY)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>