

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

CRM-M No.58650 of 2023

Decided on:21.11.2023

Sukhjinder Singh @ Mithu

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The petitioner has approached this Court under Section 482 Cr.P.C. praying for setting aside the order dated 20.09.2022 (Annexure P-4) passed by the learned Judge, Special Court, Kapurthala in FIR No.187 dated 15.10.2021 under Sections 22, 29 of the NDPS Act registered at Police Station Subhanpur, District Kapurthala whereby bail bonds/surety bonds of the petitioner were cancelled and forfeited to the State and the petitioner has been summoned through non-bailable warrants of arrest.

2. Learned counsel for the petitioner *inter alia* contends that the aforesaid FIR was registered against the petitioner on the allegation that the petitioner along with co-accused Joga Singh was apprehended with alleged intoxicant substance. The petitioner was arrested on 15.10.2021, however, enlarged on interim regular bail on 21.11.2021. The challan was presented on 07.06.2022. The petitioner was again arrested on 27.08.2022, however, released on bail vide order dated 06.01.2023 passed by the Judge, Special Court, Kapurthala. It is further contended that on 20.09.2022, the petitioner could not appear before the learned trial Court as he was in custody in some other case registered

subsequently and therefore, the non-appearance of the petitioner was neither deliberate nor intentional. The petitioner is ready to join proceedings and undertakes to be remained present on each and every date of hearing.

3. Notice of motion.

4. On the asking of the Court, Ms. Navreet Singh Barnala, AAG, Punjab accepts notice on behalf of the respondent-State and submits that the petitioner deliberately concealed himself and therefore, in order to secure his presence, non-bailable warrants of arrest were issued against him, while cancelling his bail bonds/surety bonds.

5. I have heard learned counsel for the parties and perused the pleadings of the case with their able assistance. With the consent of counsel appearing for the parties, the case is taken up for final disposal.

6. A perusal of the impugned order dated 20.09.2022 reveals that the trial Court while observing that despite calling the case several times, none appeared on behalf of the petitioner, cancelled the bail bonds/surety bonds of the petitioner and forfeited the same to the State. Further, the petitioner was ordered to be summoned through non-bailable warrants of arrest. The absence of the petitioner as pleaded by him was due to his incarceration in some other case, which was subsequently registered against him and therefore, his absence was *bona fide* and not deliberate or willful. Moreover, the petitioner is ready to join the proceedings and further undertakes to attend court proceedings on each and every date.

7. In view of the aforesaid facts and circumstances, the impugned order dated 20.09.2022 (Annexure P-4) is set aside. The petitioner is directed to surrender before the trial Court on or before 05.12.2023 and apply for grant of regular bail.

On his doing so, the Court concerned shall admit him to bail subject to furnishing

bail bonds and surety bonds to its satisfaction along with costs of ₹10,000/- for wasting precious time of the Court to be deposited with the District Legal Services Authority, Kapurthala.

8. Needless to say, in case the petitioner fails to comply with the abovesaid direction, the order passed by this Court today shall stand automatically vacated.
9. The instant petition stands allowed in above terms.

(HARPREET SINGH BRAR)
JUDGE

November 21, 2023
Pankaj*

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