

CRM-M-59374-2023
Date of decision: 24.11.2023

Rajbir Singh alias NannuPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Ms. Navreet Kaur Barnala, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of order dated 21.08.2023 (Annexure P-9) passed by the learned Judge, Special Court, Jalandhar in a case bearing FIR No.138 dated 11.08.2022 under Sections 21/22/29 of the NDPS Act registered at Police Station Bhargo Camp District Jalandhar, whereby, learned trial Court cancelled the bail order as well as the bail/surety bonds of the petitioner on account of non-appearance.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and was regularly appearing before the learned trial Court. On 11.07.2023 and 02.08.2023, the petitioner had moved an application for exemption from his personal appearance and the same were allowed for the respective dates only. In the meanwhile, an FIR No.67 dated 13.08.2023 under Sections 307/452/427/506/148/149 of IPC was registered against the petitioner at Police Station Bhargo Camp District Jalandhar by

CRM-M-59374-2023**-2-**

Heena Shahi regarding the issue related to fixed deposit in the name of Heena Shahi which was lying with the mother of petitioner. The petitioner has filed anticipatory bail in the said FIR before this Court which is pending for 11.12.2023 (Annexure P-8). It is further submitted that apprehending his arrest, the petitioner could not appear before the learned trial Court on 21.08.2023 and on the same day, due to non-appearance, his bail, bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants of arrest, notice to his surety were issued for 16.09.2023.

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of the petitioner due to apprehension of arrest in the FIR No.67 dated 13.08.2023.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

5. Notice of motion.

6. Ms. Navreet Kaur Barnala, AAG, Punjab who is present in Court, accepts notice for the respondent and supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, warrants of arrest were issued against him to secure his presence.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

CRM-M-59374-2023**-3-**

8. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

9. The sole purpose of issuance of non-bailable warrants/warrants of arrest or issuance of proclamation is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

10. In view of the aforesaid facts and circumstances, the present petition is allowed, and the impugned order dated 21.08.2023 (Annexure P-9) vide which bail order, bail bonds/surety bonds of the petitioner were cancelled and he was summoned through non-bailable warrants of arrest, is hereby set aside.

11. The petitioner is directed to appear before the trial Court within a period of 15 days from the date of receipt of certified copy of this order and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Jalandhar, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

24.11.2023

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