

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-5623 of 2024
Date of Decision: February 02, 2024

Kuldeep Singh

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARPREET SINGH BRAR

Present:- Mr. Hanspuneet Singh Kehal, Advocate
for the petitioner

Mr. Subhash Godara, Addl. A.G. Punjab

Harpreet Singh Brar, J. (Oral)

1. The petitioner has approached this Court under Section 482 Cr.P.C. seeking quashing of impugned order dated 18.12.2023 (Annexure P-3) passed by learned Additional District and Sessions Judge, Amritsar vide which bail of the petitioner has been cancelled and bail bonds have been forfeited to the State and he has been summoned through non-bailable warrant of arrest in FIR No. 25 dated 09.02.2021 registered under Sections 21(b), 25, 29 of NDPS Act, 1985 at Police Station Special Task Force, STF Wing, District Amritsar.
2. Learned counsel for the petitioner *inter alia* contends that the present FIR was registered on receipt of secret information that Bikramjit Singh, Kuldeep Singh, Ranjit Singh @ Rana and Rahul Kumar are indulged in the smuggling of Heroin and on 09.02.2021 as per secret information at Market Garden Enclave, an Alto car bearing no. HP-84-4873 was seen in which four persons were sitting. The said car was encircled by the police officials and all the

four persons were apprehended. From the search of car, 100 gram Heroin was recovered. As per the allegations of the police, the recovered material was Heroin but the report of chemical examiner has not been received so far. So it cannot be said definitely that it was Heroin. Even otherwise, the recovered quantity was not commercial. As such on 17.03.2021, the petitioner was granted regular bail by learned Additional Sessions Judge, Amritsar. On 18.12.2023, the petitioner could not appear before the learned trial Court as he noted wrong date due to some communication gap between him and the counsel representing before the learned trial Court and due to his absence, his bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants were issued for 05.01.2024.

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 his act of noting down the date wrongly.

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

5. Notice of motion.

6. Mr. Subhash Godara, Addl.A.G., Punjab, who is present in Court, accepts notice for the respondent and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

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.

8. A perusal of the order dated 18.12.2023 (Annexure P-3) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and wilful absence. The explanation offered for non appearance before the trial Court is justified and, therefore, the same is accepted.

9. 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.

10. The sole purpose of issuance of non-bailable warrants 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.

11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 18.12.2023 (Annexure P-3), vide which the bail order of the petitioner was cancelled and his bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants were issued,

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is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of 15 days from today 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, Amritsar, for wasting precious time of the Court.

(HARPREET SINGH BRAR)
JUDGE

February 02, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No