

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM M-6702 of 2024
Date of Decision: 08.02.2024

Rinku Kumar		...Petitioner
	Versus	
State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Yagsimant Attri, Advocate, for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Section 482 Cr.P.C. with a prayer to quash the order dated 28.08.2023, passed by the Court of Sub Divisional Judicial Magistrate Budhlada in case FIR No. 228 dated 15.11.2022 under Section 15-A of NDPS Act registered at Police Station City Budhlada, District Mansa.
2. Learned counsel for the petitioner contends that the petitioner was ordered to be released on bail vide order dated 18.11.2022 (Annexure P-1) passed by the Court of Sub-Divisional Judicial Magistrate, Budhlada. After the grant of the bail, the petitioner appeared before the trial Court regularly and never misused the concession of bail granted to him. However, due to some unavoidable circumstances, the petitioner could not appear before the Court on 28.08.2023. As a consequence, the bail order of the petitioner was ordered to be cancelled and his bail bonds were

ordered to be forfeited to the State and he was ordered to be summoned through non-bailable warrants. Learned counsel submits that after that, the petitioner preferred a bail application under Section 438 Cr.P.C. for grant of anticipatory bail but the same was dismissed vide order dated 30.01.2024 (Annexure P-8) passed by the Court of Additional Sessions, Mansa. Learned counsel further submits that the non-appearance of the petitioner was unintentional and he is ready to surrender before the Court and shall join the trial proceedings. He further contends that the petitioner shall appear on each and every date of hearing, before the trial Court and shall not absent himself during the Court proceedings.

3. Notice of motion.

4. On the asking of Court, Mr. I.P.S. Sabharwal, DAG, Punjab accepts notice on behalf of respondent-State.

5. Learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground the petitioner had not appeared intentionally before the trial Court and there is no illegality in the impugned order dated 28.08.2023 passed by the Sub-Divisional Judicial Magistrate, Budhlada.

5. I have heard learned counsel for the parties and perused the record.

6. It is apparent that the FIR in the present case was registered in the year 2022 and the petitioner is facing the prosecution since then. From the record, it is apparent that on 28.08.2023, the

petitioner could not appear before the trial Court and the trial Court had cancelled the bail and the bail bonds and surety bonds were ordered to be forfeited to the State.

7. Taking a lenient view of the matter, the prayer made by the learned counsel for the petitioner is accepted and the petitioner is permitted to surrender before the trial Court/Duty Magistrate within a period of one week from today and on his surrender, he shall be admitted to bail subject to furnishing bail bonds and surety bonds to the satisfaction of the concerned Court.

8. The petitioner shall file an affidavit before the trial Court that he shall appear on each and every date of hearing and shall not remain absent during the trial without prior permission of the trial Court. In case, the petitioner does not appear on any date of hearing before the trial Court without prior permission, it shall be viewed seriously and the necessary consequences will follow.

9. The trial Court/Duty Magistrate shall also be at liberty to impose any other conditions, as it deems fit in the peculiar facts and circumstances of the case.

10. Disposed off.

08.02.2024

amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No