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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13769-2024 (O&M)
Date of decision: 18.03.2024

Surender Singh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harpreet Singh Rakhra, Advocate and
Ms. Gurvinder Kaur, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 25.01.2024 passed by the learned trial Court in FIR No.186 dated 08.03.2022 under Sections 21-C, 22-C, 29 of NDPS Act, registered at Police Station Assandh, District Karnal, vide which the application for furnishing bail bonds and release of the petitioner has been dismissed.

2. Learned counsel for the petitioner, *inter alia*, contends that on 21.12.2022, the petitioner was granted default bail under the provisions of Section 167(2) Cr.P.C. Thereafter, the petitioner was arrested in another FIR No.549 dated 17.06.2022 under Sections 21(c) & 22(c) of NDPS Act,

registered at Police Station Assandh, District Karnal, therefore, he could not furnish bail bonds in pursuance to the order dated 21.12.2022 and now after his release on bail in aforesaid FIR No.549 dated 17.06.2022, the petitioner was granted bail in FIR No.186 dated 08.03.2022 by this Court on 18.01.2024 and after securing the bail in the aforesaid case, the petitioner furnished an application in FIR No.186 (*supra*) for furnishing bail bonds in pursuance of the order dated 30.11.2022 (Annexure P-3), but the said application was dismissed by the learned Additional Sessions Judge, Karnal vide impugned order dated 25.01.2024 (Annexure P-1) on the ground that now FSL report has been filed in the Court on 21.08.2023. It is further contended that indefeasible right accrued on account of non-presentation of final report under Section 173 Cr.P.C. cannot be extinguished by subsequent filing of final report. The petitioner was granted bail on 30.11.2022, which was never cancelled and furnishing of bail bonds is only a formality for the release of the petitioner from the jail and his indefeasible right cannot be taken away merely on the ground that the petitioner has not furnished his bail bonds earlier.

3. Notice of motion.

4. At this stage, on asking of the Court, Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice on behalf of the respondent-State and has not disputed the factual position.

5. With the consent of parties, the matter is taken up for final disposal.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner was granted default bail by the learned trial Court under Section 167(2) Cr.P.C. on 21.12.2022 and in FIR No.549 (supra), the petitioner was arrested by taking his custody on production warrants and he was released on bail by this Court on 18.01.2024 and thereafter, the petitioner approached the learned trial Court to furnish bail bonds in pursuance of the order granting bail on 21.12.2022, this Court is of the considered opinion that the impugned order dated 25.01.2024 (Annexure P-1) is not sustainable in the eyes of law as non-presentation of final report within the stipulated period creates an indefeasible right in favour of the petitioner and which cannot be extinguished by subsequent filing of the final report and the order dated 30.11.2022 granting bail has not been cancelled and indefeasible right of the petitioner could not be extinguished merely because the petitioner could not furnish his bail bonds in pursuance of the order granting him default bail. The petitioner has approached the learned trial Court immediately after procuring bail in FIR No.549 (supra) on 18.01.2024.

7. 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.

8. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 25.01.2024 (Annexure P-1), dismissing the application for furnishing bail bonds and release of the petitioner, is hereby set aside.

9. The petitioner is directed to be admitted on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate, concerned.

18.03.2024
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[HARPREET SINGH BRAR]
JUDGE

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