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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13810-2024 (O&M)
Date of decision: 18.03.2024

Gurvaj Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Yashpal Thakur, 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 10.01.2024 (Annexure P-1) passed by the learned trial Court in FIR No.54 dated 05.04.2019 under Sections 21, 22, 29 of NDPS Act, whereby non-bailable warrants have been issued against the petitioner and all the consequential proceedings emanating therefrom.

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, but due to miscommunication between the petitioner and his counsel, wrong date was noted down by counsel for the petitioner. On 10.01.2024, counsel for the petitioner was present in the Court

but petitioner could not appear on that day and due to his non-appearance, his bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants along with notice to his surety were issued.

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 miscommunication and 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.

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 10.01.2024 (Annexure P-1) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail. 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 10.01.2024 (Annexure P-1), vide which the bail bonds and bail order of the petitioner was cancelled and non-bailable warrants were issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of four weeks 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.

18.03.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

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