



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRM-M No. 28972 of 2024
Date of decision : 31.5.2024**

Ajay Kumar**.....Petitioner****Versus****State of Punjab****.....Respondent****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL****Present: Mr. R.K. Kachura, Advocate, for the petitioner****Mr. Jaspal Singh Guru, AAG, Punjab**

SANDEEP MOUDGIL, J (ORAL)

The petition has been filed under Section 482 Cr.P.C. for quashing the order dated 14.5.2024, passed by the Judge, Special Court, Fazilka, vide which the petitioner was declared a proclaimed offender in case FIR No.53 dated 17.7.2022 under Sections 21 of the NDPS Act, 1985, (Section 29 of the NDPS Act, 1985 added later on), registered at Police Station Sadar Amir Khas, District Fazilka.

2. Learned counsel for the petitioner contends that due to communication gap with his counsel, the petitioner could not appear in Court on 6.10.2023 and his bailable warrants were issued for 13.12.2023. On 13.12.2023 he was out of station due to some household work and therefore, he could not appear before the trial Court. Resultantly, his bail and surety bonds were cancelled and warrants of arrest were issued against him for 22.2.2024, and thereafter, proclamation was issued and he



was declared proclaimed offender vide the impugned order dated 14.5.2024.

3. Learned counsel for the petitioner now undertakes that he is ready and willing to surrender before the trial Court to associate in the trial proceedings within a period of 7 days from today itself.

4. In the light of above, having regard to the reasons mentioned in the petition as well as arguments raised before this court, this Court is duly convinced that the absence of the petitioner is neither intentional nor deliberate but has occurred due to bona fide error in the circumstances.

5. Now the petitioner has given an undertaking to join the proceedings after surrendering to the law which would only facilitate the ponderance of Court proceedings and help in expediting the proceedings for final adjudication. This Court is of the considered view that in the light of circumstances discussed as above, the petitioner deserves to be given one opportunity to surrender and join the proceedings before the trial Court as undertaken by him, i.e., within a period of 7 days from today.

6. Hence, the order dated 14.5.2024 is set aside subject to surrendering of the petitioner within 7 days from today.

7. It is further observed that in case any application for bail is moved by the petitioner, the same may be considered and decided by the Court in accordance with law on that very day itself.

8. There is no denial to the fact that due to petitioner's act, delay has occurred in trial proceedings and has caused prejudice to the other side and to compensate the delay which is caused by the petitioner alone,

therefore, the petitioner is directed to deposit costs of ₹10,000 before the



Punjab and Haryana High Court Bar Clerks Association and a receipt of the same be produced before the trial Court and only in that eventuality, application of the petitioner for seeking bail be considered.

9. However, it is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.

10. The petition in the aforesaid terms is allowed.

(SANDEEP MOUDGIL)
JUDGE

31.5.2024
Ashwani

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