



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-31666-2024 in/and

CRR-1240-2024

Date of decision: 13.08.2024

Netra Pal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Abhimanu, Advocate
for the petitioner.

Ms. Trishanjali Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J.**CRM-31666-2024**

Prayer in the instant application is for advancing the date
of hearing of main case from 16.09.2024 to some early date.

Notice of the application.

Learned State counsel accepts notice of the application.

In view of the reasons mentioned in the application, the
same is allowed and the date of hearing of the main case is advanced
from 16.09.2024 to today itself.

CRR-1240-2024

1. The petitioner is challenging order dated 20.06.2024
passed by learned Additional Sessions Judge, Faridabad in case FIR
No.171 dated 15.03.2024 under Section 15 of the Narcotic Drugs and
Psychotropic Substances Act, 1985 (for short, 'the NDPS Act')



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registered at Police Station City Ballabhgarh, District Faridabad, whereby the statutory right of the petitioner has been forfeited by imposing stringent, onerous condition while granting default bail to him.

2. Learned counsel for the petitioner contends that the learned Trial Court while passing the impugned order dated 20.06.2024, imposed an unreasonable and onerous condition while granting the concession of default bail under Section 167(2) of the Cr.P.C. to the petitioner, specifically requiring the petitioner to furnish bail bonds within one hour. It has been submitted by the learned counsel that the petitioner was arrested on 17.03.2024, after being named in the disclosure statement of a co-accused from whom 28.1 kgs of poppy husk was allegedly recovered. Subsequently, the investigating agency failed to present the challan within the stipulated period of 60 days, which expired on 19.05.2024. In these circumstances, the petitioner filed an application under Section 167(2) of the Cr.P.C. for default bail on 11.06.2024. Learned counsel further submits that the learned Trial Court, after taking into account that the challan had not been presented within the prescribed period, rightly ordered the petitioner's release on default bail vide order dated 20.06.2024. However, it has been argued that, despite ordering the release of the petitioner on bail, the learned Trial Court imposed an onerous condition requiring the bail bonds to be furnished within one hour, effectively depriving the petitioner of his statutory right to bail and leading to miscarriage of justice. Since the petitioner could not furnish the requisite bonds within the one hour



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window, he was remanded to judicial custody. Learned counsel submits that the statutory right to default bail cannot be forfeited simply because the petitioner was unable to meet such a stringent condition within the limited time provided. The petitioner should have been granted a reasonable amount of time to furnish the bail bonds. Learned counsel argues that the order of the learned Trial Court effectively nullifies the statutory right to bail of the petitioner and violates his personal liberty under Article 21 of the Constitution of India. Therefore, learned counsel prays that the onerous condition imposed by the learned Trial Court be set aside.

3. Per contra, learned State counsel while opposing the prayer made by the learned counsel for the petitioner, does not dispute the fact that the challan was not presented within the stipulated period of 60 days. It has also not been disputed that the petitioner, who has been in custody since 17.03.2024, was ordered to be released on default bail, provided the bail bonds were furnished within one hour.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. After hearing the submissions and perusing the material on record including the impugned order, the learned Trial Court rightly extended the concession of default bail to the petitioner, as the challan was admittedly not presented within the stipulated period of 60 days. However, this Court concurs with the submissions made by learned counsel for the petitioner that adequate time should have been granted by the learned Trial Court for the petitioner, who was already in

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custody, to arrange and furnish the bail bonds. The condition imposed by the learned Trial Court requiring the bail bonds to be furnished within one hour is indeed onerous and deserves to be set aside.

6. Accordingly, instant petition is allowed and the condition imposed by the learned Trial Court requiring the furnishing of bail bonds within one hour is hereby set aside. The petitioner is ordered to be released on default bail in terms of Section 167(2) of the Cr.P.C. upon furnishing bail bonds in the sum of Rs.1 lakh with one surety in the like amount, subject to the satisfaction of the learned Trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

13.08.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No