

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

108

CRM-M-32553-2024

Date of Decision : July 11, 2024

GURMUKH KAPOOR

-PETITIONER

V/S

STATE OF PUNJAB THROUGH DRUG INSPECTOR FEROZEPUR

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Dr. Sandeep Kumar Passi, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. Through this second petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the relief of anticipatory bail, in Complaint Case No. COMA/2/2018 dated 18.05.2017, titled as “State through Drug Inspector, Ferozepur Versus Gurmukh Kapoor”, under Section 18(c) read with Rule 62 punishable under Section 27(b)(ii) and Section 18-A punishable under Section 28 of the Drugs and Cosmetics Act, 1940/Rules 1945.

2. Petitioner’s earlier petition on the same cause of action, i.e. CRM-M-29978-2024, was dismissed by this Court through drawing an order dated 14.06.2024 (Annexure P-2). The reason being that, the petitioner had, without making any motion before the court of first instance, straightaway approached this Court. However, liberty was

granted to the petitioner to approach the learned Court concerned for seeking the relief of pre-arrest bail.

3. Record reveals that the petitioner was on bail, however, owing to his non appearance before the learned trial Court concerned on 24.05.2024, his bail was cancelled and his bail/surety bonds were forfeited, as is evident from order dated 24.05.2024 (Annexure P-6). Moreover, nonailable warrants were also issued against him.

4. What further emanates from the record is that, the petitioner remained absent before the learned trial Court concerned on various dates and was in the habit of making applications for exemption from personal appearance on one or the other ground. On 24.05.2024 also, he had moved an application seeking exemption from personal appearance, however, since this application was filed on vague and unsubstantiated grounds, therefore, his application was dismissed and his bail was cancelled.

5. The learned counsel for the petitioner submits that the absence of the petitioner before the learned trial Court concerned was neither intentional nor willful, rather was *bona fide*. He further submits that the petitioner is ready and willing to surrender before the learned trial Court concerned, in case adequate protection is granted to him.

6. This Court is of the view that, since the need of the hour is to secure the presence of the petitioner, as the case is fixed for defence evidence, therefore, the petitioner is directed to surrender before the learned trial Court concerned within 10 days. The learned Court concerned is also directed to, in case the petitioner surrenders and files an

application for regular bail, decide it on the same day itself, but, after affording opportunity of hearing to the respondent-State. The petitioner is also directed to, except for strong and pressing reasons, not file any application seeking exemption from personal appearance. The arrest of the petitioner shall remain stayed for the next 10 days.

7. It is made clear that the learned trial Court concerned shall be at liberty to initiate proceedings under Section 446 of the Cr.P.C. against the petitioner.

8. Disposed of accordingly.

July 11, 2024
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No