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Harbhajan Singh alias Ajay and anotherPetitioners
Versus
State of HaryanaRespondent

— — —

SANDEEP MOUDGIL, J (ORAL)

The petition has been filed under Section 482 Cr.P.C. for quashing the order dated 3.2.2024 (Annexure P-12), passed by the trial Court in FIR No.6 dated 5.1.2021, under Sections 22 (b), 27-A of the NDPS Act, 1985, registered at Police Station Sadar Ratia, District Fatehabad, whereby the bail granted to the petitioners was cancelled, their bail/surety bonds were forfeited and non-bailable warrants were ordered to be issued against them.

2. Learned counsel for the petitioners contends that after presentation of challan on 4.10.2021, charges were framed on 4.7.2022, and case was adjourned for 27.10.2022 for prosecution evidence. On 27.10.2022, 16.2.2023 and 16.9.2023 no PW was present and the case was adjourned to 3.2.2024 for prosecution evidence.

3. It is, At this stage, learned counsel for the petitioners has urged



that he would noted down the wrong date as 3.7.2024 instead of 3.2.2024 and on that account, due to wrong noting down of date, could not put in appearance on 3.2.2024, which would led cancellation of their bail and subsequent proceedings culminating in the passing of the impugned order dated 3.2.2024.

4. Assailing that order, the instant petition has been filed and after hearing learned counsel for the petitioners and considering the aforesaid reasons vide its order dated 22.7.2024, this Court permitted the petitioners to move an application before the trial Court seeking bail afresh with a direction that the same may be considered and decided as per law within a period of 3 days of moving any such application.

5. Today at the time of hearing, learned counsel for the petitioners informed the Court as well as produced an order dated 29.7.2024, vide which application filed by the petitioners under Section 438 Cr.P.C. has been dismissed for the sole reason that anticipatory bail is not maintainable in a non-bailable offence wherein the petitioners are absconding the process of law.

6. Having given a thoughtful consideration to the assertion made on behalf of the petitioners and perusal of order dated 29.7.2024 passed by Additional Sessions Judge, Fatehabad, this Court has no doubt to the correctness of the order dated 29.7.2024. However, examining the factual aspects as recorded hereinabove, i.e., non-appearance of the petitioners on 3.2.2024, was on account of noting down a wrong date of hearing i.e. 3.7.2024, benefit of doubt, if given, would not prejudice the rights of either of the parties to the lis and rather would facilitate the furtherance of

trial proceedings to reach to a logical conclusion.

7. Without further going into the discussion just to check the bona fide of the petitioners, they are directed to surrender before the trial Court within a period of 7 days from today and may move an application for regular bail.

8. The trial Court is requested to consider the regular bail application, if any so filed, as per law expeditiously preferably on the same date itself.

9. In the light of above, this petition is disposed of. The order dated 3.2.2024 is quashed subject to surrender of the petitioners before the trial Court within a period of 7 days from today, failing which directions given by this Court would stand cancelled automatically.

(SANDEEP MOUDGIL)
JUDGE

31.7.2024
Ashwani

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