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

**CRM-M-35976-2024
DATE OF DECISION: 29.07.2024**

BALWINDER SINGH ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Tushar Sharma, Advocate for the petitioner(s).
 Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This petition has been filed under Section 482 Cr.P.C. for quashing of order dated 19.07.2024 whereby the Trial Court has passed the order for securing the presence through non-bailable warrants in FIR No. 15 dated 28.02.2021 under Section 22 of The Narcotic Drugs and Psychotropic Substances Act, 1985 at P.S. Bholath, District Kapurthala.

2. Learned counsel for the petitioner states that the petitioner is a poor person and used to do labour work for livelihood. He further submits that despite being present on each and every date except on one date i.e., 19.07.2024, he could not attend the Court proceedings as he had noted down the wrong date as 20.07.2024 instead of 19.07.2024. It is on that account that non-appearance of the petitioner occurred and the trial Court vide order dated 19.07.2024 issued non-



bailable warrants against him while cancelling the bail/surety bonds and forfeited to the State of Punjab.

3. A perusal of the impugned order further reveals that proceedings under Section 446 Cr.P.C. has been initiated against him and his surety as well for 03.10.2024.

4. Learned counsel for the petitioner in this regard has relied upon the judgment of the Supreme Court passed in '**Krishna Sharma alias Krishna Kumar Sharma vs. The State of West Bengal and Anr.**', 2024(1) RCR (Criminal) 820, wherein it is stated that cancellation of bail on account of merely absence of the accused personally would not be a ground for passing such order and parameters for grant of bail and cancellation of bail are totally different. However, the aforesaid situation is totally distinct wherein bail was cancelled but in the present case, the Trial Court has passed the order for securing the presence through non-bailable warrants.

5. Learned counsel for the petitioner has further submits that the petitioner did not had any intention to avoid attendance in the Court proceedings otherwise he was appearing regularly on each and every date before the Court. He undertakes that the petitioner will surrender before the trial Court and shall join the trial proceedings without any delay or default in future.

6. Notice of motion. On the asking of the Court, learned State Counsel accepts notice on behalf of the respondent-State, who is



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not averse to the undertaking given by the petitioner that he will surrender before the trial Court.

7. Considering the submissions made by learned counsel and also in appreciation of the fact that it will only speed up the proceedings before the Trial Court which is one of the essence as enshrined under Article 21 of the Constitution of India, the petitioner is directed to surrender before the trial Court within a period of one week week from today and apply for regular bail.

8. In case, such an application for bail is moved by the petitioner before the learned trial Court, the same shall be considered on the same date and decided in accordance with law.

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. Petition in aforesaid terms disposed of.

(SANDEEP MOUDGIL)
JUDGE

29.07.2024
anuradha

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