



CRM-M-38264-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-38264-2024
Date of decision : 08.08.2024

Mani Hans

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Manjinder Singh Saini, Advocate,
for the petitioner.

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 528 of Bhartiya Nagrik Suraksha Sanhita, 2023 for quashing the impugned order dated 31.05.2024 (Annexure P-8) passed by learned Judge Special Court, Hoshiarpur in case FIR No.138 dated 11.06.2021 under Sections 21/61/85 of NDPS Act, registered at Police Station Model Town, Hoshiarpur, Punjab (Annexure P-1) whereby the petitioner has been declared proclaimed offender alongwith all subsequent proceedings arising therefrom.

2. Learned counsel for the petitioner submits that allegedly there was a recovery of 20 grams Heroin from the petitioner. He further submits that earlier the petitioner was granted concession of bail in afore-stated FIR by the learned trial Court vide order dated 14.03.2022 and he was regularly appearing before the trial Court. Learned counsel further submits that the petitioner had noted wrong date of hearing, hence he could not appear on the date fixed before the trial Court

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i.e. 16.11.2023 and thus, bail granted to him was cancelled by the trial Court and the bail bonds/surety bonds were also cancelled. He submits that anticipatory bail filed by the petitioner was also dismissed vide order dated 04.03.2024. Subsequently, he was declared proclaimed offender vide order dated 31.05.2024. Learned counsel submits that the procedure prescribed under Section 82 Cr.P.C. has not been followed. The petitioner is ready to appear before the trial Court and abide by all the terms and conditions as may be imposed upon them by the trial Court.

4. Notice of motion to the official respondents at this stage.
5. At asking of the Court, Mr. R.S. Thind, DAG, Punjab accepts notice on behalf of respondent-State.
6. Heard.
7. On hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner was granted bail by the trial Court, however due to inadvertent mistake in noting the date of hearing, he could not appear before the trial Court on one date i.e. 16.11.2023 and on account of the same, his bail bonds/surety bonds were cancelled. The petitioner is ready to appear before the trial Court and face the trial.
8. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.
9. Accordingly, this Court finds that no useful purpose will be served by sending the petitioner in custody when he was continuously appearing before the



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trial Court but could not appear on one date. The reason for which he has given that he noted a wrong date and now he is ready to join the proceedings.

10. In view of the above, the present petition is disposed of. Order dated 31.05.2024 (Annexure P-8) is hereby set aside subject to payment of costs of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh within a period of 10 days from today. The petitioner after depositing the cost as stated above would appear before the trial Court on or before the date fixed i.e. 20.08.2024 and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner on bail on his furnishing fresh bail bonds to its satisfaction. No coercive action would be taken against the petitioner till 20.08.2024. In case, the petitioner failed to appear before the trial Court on or before the date fixed i.e. 20.08.2024 or failed to deposit the cost as stated above, this order would be of no avail to the petitioner.

(KIRTI SINGH)
JUDGE

08.08.2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No