

CRM-51657-2023 in/and
CRM-M-48484-2023
Date of decision: 11.01.2024

Sabar Shah @ Chavar KumarPetitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Avtar Singh Bhatti, Advocate
for the applicant/petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

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In view of the averments made in the application, the same is allowed. Annexures P-4 & P-5 are taken on record subject to all just exceptions.

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1. The present petition has been filed under Section 482 Cr.P.C. seeking quashing of impugned order dated 25.07.2023 (Annexure P-3) passed by the learned Additional Sessions Judge, Hoshiarpur, in case bearing FIR No.0145 dated 26.06.2019 for the offence under Section 22 of the NDPS Act registered at Police Station Tanda District Hoshiarpur (Annexure P-1), whereby, bail order of the petitioner was cancelled and his bail bonds/surety bonds were forfeited to the State.

2. Learned counsel for the petitioner *inter alia* contends that

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the petitioner was granted bail by the trial Court, thereafter, he was regularly appearing before the learned trial Court, however, in the month of May, 2023 the judicial complex was shifted to new judicial complex, Hoshiarpur and due to this confusion, he could not appear before the learned trial Court on 25.07.2023 and when he reached in the office of his counsel in new Judicial Complex, he was informed that his bail order was cancelled and his bail bonds/surety bonds were forfeited to State and the petitioner was ordered to be summoned through non-bailable warrants of arrest for 25.09.2023.

3. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

4. Notice of motion.

5. Mr. Subhash Godara, Addl.A.G., Punjab, who is present in Court, accepts notice for the respondent and supports the order passed by the learned trial Court by contending that the petitioner did not put in appearance before the trial Court intentionally and deliberately and, therefore, having left with no other option, non-bailable warrants of arrest were issued to secure his presence.

6. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

7. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible

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with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

8. The sole purpose of issuance of non-bailable warrants or issuance of proclamation is to secure the presence of the accused before the trial Court. The petitioner in the present case has himself came forward and has undertaken to appear before the learned trial Court on each and every date.

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 25.07.2023 (Annexure P-3) vide which bail order of the petitioner was cancelled, his bail bonds/surety bonds were forfeited to the State and non-bailable warrants of arrest were issued against him, is hereby set aside.

10. The petitioner is directed to appear before the trial Court within a period of 15 days from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court.

(HARPREET SINGH BRAR)
JUDGE

11.01.2024
Neha

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