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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50381-2023
Date of Decision: 28.05.2024

MOHD. DILSHAD ... Petitioner

Versus

STATE OF PUNJAB ... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Abdul Aziz, Advocate for the petitioner.

Mr. Japjot Singh, AAG, Punjab.

SANJIV BERRY, J. (ORAL)

The instant petition under Section 482 Cr.P.C. has been filed for quashing of the impugned order dated 05.07.2023 (Annexure P-10) passed by learned Judge, Special Court, Sangrur, whereby the bail of the petitioner was cancelled and he was ordered to be summoned through non-bailable warrants of arrest for 30.09.2023 in case bearing No. NDPS-685-2019 titled “State of Punjab Versus Mohd. Dilshad” arising out of FIR (Annexure P-1). The details of the FIR are as under:-

FIR No.	Dated	Sections	Police Station
75	07.06.2019	15(Act No. 61) NDPS Act	City-I, Malekotla, District Malerkotla

2. Learned counsel for the petitioner *inter alia* contends that in compliance of the order dated 06.10.2023, petitioner appeared before the learned trial Court on 07.10.2023 and furnished requisite bail bonds and surety bonds on 13.10.2023 . He contends that the petitioner has joined the trial Court proceedings, as such the order dated 05.07.2023 (Annexure P-10) passed by



learned Judge Special Court, Sangrur, whereby the bail of the petitioner was cancelled and he was ordered to be summoned through non-bailable warrants of arrest for 30.09.2023 in case bearing No.NDPS-685-2019 titled “State of Punjab Versus Mohd. Dilshad” arising out of FIR no. 75 dated 07.06.2019 be quashed.

3. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 07.10.2023 and furnished requisite bonds and surety bonds on 13.10.2023.

4. Heard.

5. During the course of the proceedings, following order was passed on 06.10.2023:-

1. The present petition under Section 482 Cr.P.C. has been moved by the petitioner seeking quashing of the impugned order dated 05.07.2023 (Annexure P-10) vide which the bail of the petitioner has been cancelled and he was ordered to be served through non-bailable warrants of arrest for 30.09.2023 in case FIR No. 75 dated 07.06.2019 under Section 15 (Act No.61) of Narcotic Drugs and Psychotropic Substances Act, registered at P.S. City-I, Malerkotla, District Malerkotla (Annexure P-1).

2. It is, inter alia, contended by learned counsel for the petitioner that the petitioner, having been arrested in the aforesaid case, was granted concession of bail and thereafter he had been regularly appearing in the trial Court and facing trial as is evident from the copy of the zimni orders placed on record by the petitioner. Learned counsel for the petitioner further submits that, however, on 05.07.2023, the petitioner could not appear in the Court due to the fact that he was suffering from fever and had intimated his counsel to move appropriate application, however, his counsel did not intimate the learned trial Court. As a consequent, the absence for the petitioner was marked and his bail orders in the case were cancelled and the petitioner ordered to be served through non-bailable warrants of arrest. He further submits that the absence of the petitioner on that date from the trial Court was not intentional but due to the reason beyond his control being suffering from fever and his counsel not moving the application before the trial Court seeking his exemption. Learned counsel for



the petitioner, however, submits that the petitioner would be regularly appearing in the Court on each and every date if granted concession of bail and now the case is pending in the Court of learned Additional Sessions Judge, Sangrur for 07.10.2023.

- 3. *Notice of motion.*
- 4. *On the asking of the Court, Ms. Swati Batra, DAG, Punjab., who is present in Court, accepts notice on behalf of the respondent-State.*
- 5. *Reply, if any, be filed on or before the next date of hearing with a copy advance to the opposite counsel.*
- 6. *In the meanwhile, the petitioner is directed to appear in the trial Court on 07.10.2023, the date already fixed and in that event ordered to be released on interim bail to the satisfaction of the concerned Court. The petitioner is further directed to furnish specific undertaking before the concerned Court that he will regularly appear on each and every date of hearing without fail and only in case of any exigency, he will move appropriate application seeking exemption from the Court in accordance with law.*
- 7. *Adjourned to 31.10.2023”*

6. Keeping in view the fact that the petitioner has already appeared before the learned trial Court and furnished his requisite bail/surety bonds consequent to the order dated 06.10.2023, passed by this Court, the present petition is allowed, and order dated 05.07.2023 (Annexure P-10), passed by learned Judge, Special Court, Sangrur, whereby the bail of the petitioner was cancelled and he was ordered to be summoned through non-bailable warrants of arrest is hereby set aside and the interim bail granted vide order dated 06.10.2023 is hereby confirmed.

7. The Petition stands allowed.

(SANJIV BERRY)
JUDGE

28.05.2024

Gyan	i)	Whether speaking/reasoned?	Yes
	ii)	Whether reportable?	Yes