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CRM-M-50564-2023

Neutral Citation No.2024:PHHC:076217
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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-50564-2023
Date of decision: 28.05.2024

SANJIBAN BISWAS @ SANJEEV BISWASPetitioner

Versus

STATE OF PUNJABRespondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Rajesh Verma, Advocate
for the petitioner.

Mr. Japjot Singh, AAG, Punjab.

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SANJIV BERRY, J. (ORAL)

Learned counsel for the petitioner submits that in compliance to the order dated 06.10.2023 the petitioner has appeared in the learned Trial Court on 21.10.2023 and has furnished the requisite bail bonds. He has also placed on record the copy of the order dated 21.10.2023 and also 18.12.2023 to substantiate his contentiton that the petitioner has furnished the requisite bail bonds and has been regularly appearing in the Court thereof during the course of trial thereafter.

2. During course of hearing on 06.10.2023, the following order was passed:

“ The instant petition under Section 482 Cr.P.C. has been moved by the petitioner seeking quashing of the order dated 16.08.2023 (Annexure P-5) whereby the bail of the petitioner was cancelled and the petitioner was ordered to be served through non-bailable warrants of arrest for 21.10.2023 in case FIR No. 0191 dated 26.06.2019 under Section 22 of NDPS Act, registered at P.S. Sohana (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 regular bail and he had been regularly appearing in the trial Court. Learned counsel for the petitioner further submits that vide order dated 10.04.2023 (Annexure P-3), the petitioner had appeared in the Court and the case was adjourned for prosecution evidence for 16.08.2023, however, due to inadvertence, the petitioner as well as his counsel had noted the date as 16.09.2023. To support this contention, the petitioner has also placed on record the affidavit of his counsel (Annexure P-4) representing the petitioner in the trial Court. As per learned counsel for the petitioner having wrongly noted the date, the petitioner as well as his counsel did not appear in the trial Court on 16.08.2023, leading to passing of the impugned order. Learned counsel for the petitioner further contends that the petitioner had been regularly appearing in the Court on each and every date and if granted the concession of bail, the petitioner will regularly appear in the trial Court on each and every date of hearing, without fail.*

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 an advance copy to the opposite counsel.*

6. *In the meanwhile, the petitioner is directed to appear before the trial Court on or before 21.10.2023 and in that event, the petitioner is 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.”*

3. Heard.
4. The learned State counsel on instructions from ASI Sishpal, P.S. Sohana has not disputed the factual matrix of the case.
5. After considering the rival contentions and perusing the record, it transpires that by way of present petition the petitioner has challenged the order dated 16.08.2023 (Annexure P-5) whereby on account of absence of the petitioner his bail was cancelled and petitioner was ordered to be served through non-bailable warrants of arrest for 21.10.2023 in case FIR No.0191 dated 26.06.2019 under Section 22 of NDPS Act.
6. Subsequently, on the filing of the instant petition by the petitioner, the aforesaid order dated 06.10.2023 was passed and in compliance thereto the petitioner has already furnished the requisite bail bonds and has been regularly appearing in the learned Trial Court thereafter.
7. In view of these facts, the present petition is hereby allowed thereby quashing the impugned order dated 16.08.2023 (Annexure P-5) and the interim bail granted to the petitioner vide order dated 06.10.2023 is hereby made absolute.
8. Disposed of.

28.05.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |