



CRM-M-50750-2024

-1-

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

CRM-M-50750-2024 (O&M)

Date of decision: 10.10.2024

Gurbaj Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Malkeet Devgan, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

The prayer in the present petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is for quashing the impugned orders dated 08.04.2024 (Annexure P-6) passed by the learned Sessions Judge, Tarn Taran in case bearing No.NDPS-36-2021 titled as 'State Versus Gurbaaj Singh and others', in FIR No.0047 dated 02.03.2020, under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Goindwal Sahib, District Tarn Taran, vide which the bail/surety bonds filed by the petitioner was ordered to be forfeited to the State and non-bailable warrants of the petitioner were ordered to be issued.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that that the petitioner has been arrested on the allegations that 10 Grams of *Heroin* has been recovered from him, which is not within the ambit

**CRM-M-50750-2024****-2-**

of commercial quantity, and he was granted the concession of regular bail vide order dated 14.04.2020 (Annexure P-2) passed by the learned Judge Special Court, Tarn Taran. Learned counsel further contends that the petitioner could not appear before the learned trial Court on 14.03.2024 due to some miscommunication between the petitioner and his counsel and bail was cancelled only for solitary absence. He also contends that the petitioner has been attending the trial Court on each and every date.

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

6. Notice of motion.

7. Dr. Dharminster Singh Lamba, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail.

8. 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.

9. A perusal of the order dated 08.04.2024 (Annexure P-6) reflects that the trial Court proceeded to cancel the bail of the petitioner while forfeiting his bail/surety bonds to the State and even, non-bailable warrants have been issued for the solitary absence of the petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before



the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and willful absence. The explanation offered for non-appearance before the trial Court is justified and, therefore, the same is accepted.

10. 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 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.

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

12. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 08.04.2024 (Annexure P-6) is hereby set aside.

13. The petitioner is directed to appear before the trial Court within a week 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, along with costs of Rs.5,000/- to be deposited with the PGI Poor Patients' Welfare Fund, Chandigarh, for wasting precious time of the Court.

**CRM-M-50750-2024****-4-**

14. The receipt of payment of costs imposed upon the petitioner must be presented before learned trial Court. Learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

10.10.2024
adhikari

[HARPREET SINGH BRAR]
JUDGE

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