



CRM-M-52386-2024

1

124

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-52386-2024

Date of decision : 28.10.2024

Hanif Mistri @ Hanif Mohammad

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Mohit Kumar, Advocate
for the petitioner.

Mr. Vinay Kumar, DAG Punjab

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 24.05.2023 (Annexure P-3) passed by Additional Sessions Judge, Sangrur vide which bail order of the petitioner was cancelled and non-bailable warrants of arrest were issued for 23.10.2023 in case FIR No. 119 dated 23.10.2021 under Sections 15 and 29 of NDPS Act, 1985 registered at Police Station City II, Malerkotla, District Malerkotla.

2. Learned counsel for the petitioner submits that allegedly there was recovery of 25 Kg poppy husk from co-accused and the petitioner was nominated on the basis of disclosure statement. He further submits that the petitioner was granted anticipatory bail vide order dated 09.12.2021 and since then he was regularly appearing before the trial Court. However, on 24.05.2023, the petitioner could not appear before the Court as the counsel had noted wrong date and on account of the same, his non-bailable warrants were issued. He further submits

**CRM-M-52386-2024****2**

that his absence was unintentional and he is ready to appear before the trial Court and abide by all terms and conditions imposed upon him.

3. Notice of motion.

4. At asking of the Court, Mr. Vinay Kumar, DAG, Punjab, accepts notice on behalf of respondent No.1-State.

5. Heard.

6. On hearing learned counsel for the parties and perusing the record, it is apparent that the petitioner was granted anticipatory bail by the trial Court, however, he could not appear before the trial Court on 24.05.2023 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.

7. The objective of the coercive mechanism prescribed 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.

8. This Court finds that no useful purpose will be served by sending the petitioner in custody when he was continuously appearing before the trial Court but could not appear on one date as his counsel noted the wrong date.

9. In view of the above, the present petition is allowed. Order dated 24.05.2023 (Annexure P-3) is hereby set aside subject to payment of cost of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh. The petitioner after depositing the cost as stated above would appear before the trial Court within 15 days and file appropriate application

along with receipt of payment of cost. The trial Court would release the petitioner



CRM-M-52386-2024

3

on bail on his furnishing fresh bail bonds to its satisfaction. In the meanwhile, no coercive action would be taken against the petitioner. In case, the petitioner fails to appear before the trial Court within 15 days or fails to deposit the cost as stated above, this order would be of no avail to the petitioner.

(KIRTI SINGH)
JUDGE

28.10.2024
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No