

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53636-2024
Date of Decision:25.10.2024

Deepak Kumar @ Deepu @ Bihari ...Petitioner

vs.

State of Punjab ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Ankit Kharband, Advocate
for the petitioner.

Mr. I.P.S Sabharwal, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 528 of B.N.S.S with a prayer to quash the impugned order dated 21.05.2024 (Annexure P-5) passed by the Court of Additional Sessions Judge, Amritsar, whereby the bail orders of the petitioner was cancelled and the personal bonds/ surety bonds were cancelled and ordered to be forfeited to the State and the petitioner was ordered to be summoned through non-bailable warrants of arrest.
2. Learned counsel for the petitioner contends that the petitioner was arrested in the present case on 07.06.2022 and after the custody of five months, he was granted the concession of regular bail by the Court of Additional Sessions Judge, Amritsar vide order dated 03.11.2022 (Annexure P-2). Thereafter, the petitioner was regularly appearing before the Trial Court. After the presentation of the challan, the case was committed to the Sessions Court and due to some communication gap, the petitioner could not appear before

the Trial Court on 10.04.2024. The case was adjourned to 03.05.2024 for consideration on framing of charge. Still further, again the case was adjourned to 21.05.2024 for appearance of the petitioner. Even, the notices were issued by the court were never served on him and he could not appear before the Trial Court. Thus, ultimately on 21.05.2024, his bail order was cancelled and his personal bonds/surety bonds were ordered to be forfeited to the State. Learned counsel further contends that the petitioner had no knowledge with regard to the pendency of the proceedings before the Trial Court, as no notice was served on him and he could not appear before the Trial Court. Learned counsel for the petitioner next contends that the petitioner is ready to join the proceedings before the Trial Court and he will undertake to appear on each and every date of hearing, before the Trial Court and shall not absent himself during the Court proceedings.

3. Notice of motion.

4. Mr. M.S. Bajwa, DAG, Punjab, who is present in the Court, accepts notice on behalf of respondent-State and opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is a habitual offender and has involved in four other criminal cases. He further contends that earlier also the petitioner had not appeared before the Court and was arrested after several years. Learned State counsel further submits that the petitioner may further delay the proceedings before the Trial Court.

5. I have heard the rival submissions made by learned counsel for the parties and perused the record.

6. In the present case, no doubt the petitioner did not appear on several dates before the Trial Court, however, this Court cannot be oblivious of

the fact that the summons/warrants were never served on him. Even otherwise, the petitioner had already remained in custody for almost five months in the present case and was granted the concession of bail on 03.11.2022. Even the pendency of the other criminal cases cannot be taken against him as the petitioner was granted the concession of regular bail in the present case by the Trial Court and now, non-bailable warrants have been issued against him only on account of his non-appearance before the Trial Court. Thus, even though there is no illegality in the impugned order dated 21.05.2024 (Annexure P-5), still, taking a lenient view of the matter, the petitioner is permitted to appear before the Trial Court/Duty Magistrate within a period of two weeks from today subject to payment of Rs.25,000/- as cost which shall be deposited with **Punjab and Haryana High Court Bar Clerks Association** and on his appearance before the Trial Court, he shall be admitted to bail subject to furnishing bail bonds and surety to the satisfaction of the concerned Court. At the time of furnishing of bail bonds, the petitioner shall also file an affidavit before the concerned Court that he shall continue to appear before the Court on each and every date of hearing and shall not absent himself during the court proceedings, except with prior permission of the Court. Even he shall also file an undertaking before the Court that he shall not make any effort to delay the trial in any manner and shall not indulge in any other crime during trial.

10. In view of the above, the petition stands allowed in the above terms.

25.10.2024

hitesh

(N.S.SHEKHAWAT)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No