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HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Misc Application No. 795 of 2024

08 May, 2025

Boby Singh

--Petitioner

Versus

State of Uttarakhand & Anr.

--Respondents

Presence:-

Mr. Harshpal Sekhon, Advocate for the petitioner/accused.

Mr. Deepak Bisht, learned D.A.G. for the State.

Hon'ble Vivek Bharti Sharma, J.

This criminal misc. application is filed under Section 528 of B.N.S.S. by the petitioner/accused for quashing of the order dated 05.10.2024 passed by learned 1st Additional Sessions Judge, District Udham Singh Nagar in Sessions Trial No. 62 of 2024 (*arising out of F.I.R. No. 59 of 2024 dated 01.02.2024 under Sections 147, 148, 149, 307 & 324 of IPC, registered at P.S. Sitarganj, District Udham Singh Nagar*) titled as '*State vs. Gagandeep Singh Ratanpuriya & Others*' for the offence punishable under Sections 147, 148, 149, 307, 324, 34, 397, 412, 427, 504 & 506 and Section 25 (1B) (a) written as [धारा 25 (1ख (क))] & Section 25 (1B) (b) written



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as [धारा 25 (1ख (ख)) of the Arms Act, registered at Police Station Sitarganj, District Udham Singh Nagar.

2. Vide impugned order dated 05.10.2024, the court below directed the petitioner/accused to appear in person but he did not appear. However, the witness *Jaideep Singh* was present before the court below but due to the absence of petitioner/accused Bobby, it was not possible to record the evidence of the said witness, therefore, the bail granted to petitioner/accused was cancelled and non-bailable warrant was issued against the petitioner/accused as he was not present before the court below.

3. Pursuant to the order dated 18.11.2024 passed by this Court, petitioner/accused was granted liberty to appear before the trial court and to move an application for cancellation of non-bailable warrant and to apply for a formal bail.

In this regard, a report dated 03.05.2025 has been received from the learned 1st Additional District & Sessions Judge, District Udham Singh Nagar indicating that the petitioner/accused has failed to appear as directed, despite having been



extended a clear opportunity by this Court to present himself and participate in the proceedings. No explanation or justification has been submitted for such non-appearance, nor has any exemption application been moved on behalf of the petitioner/accused.

4. The learned State counsel respectfully would submit that vide order dated 18.11.2024 the petitioner/accused was granted more than sufficient liberty by this Court to appear in the trial court and to move appropriate application for cancellation of non-bailable warrant; that, the operation of non-bailable warrant, was also ordered to be kept in abeyance till his application is disposed of by the trial court.

5. Considered and perused the record available on file.

6. As submitted above, the petitioner/accused was given liberty to appear before the trial court to move an appropriate application for cancellation of non-bailable warrant issued against him by the trial court vide order dated 05.10.2024, and till then the



operation of the non-bailable warrants were kept in abeyance. However, as submitted by the learned counsel for the parties, the petitioner/accused did not appear before the trial court it seems that the petitioner/accused is not only trying to evade the process of law but delaying the trial also.

7. Perusal of the record reveals that with the petition the petitioner/accused has filed a '*Medical Certificate*' dated 07.10.2024 (*Annexure no.6 to the petition*) ostensibly given by some *Raza Multispeciality Hospital, Baheri* certifying that petitioner/accused was not keeping well from 03.10.2024 to 07.10.2024. Further perusal of the '*Medical Certificate*' shows that **the date 03/10/2024 has been written by overwriting it as 3 by converting 7 into 3.** *Prima facie*, it seems that originally the date was written 07.10.2024 but later-on at the instance of the petitioner/accused, it was changed to 3 by doing an overwriting. The role of this doctor, who has issued the '*Medical Certificate*', is also dubious and it seems that this certificate was fabricated to use the same as evidence in the Court of law.

Moreover, even after liberty being given to



the petitioner/accused vide order dated 18.11.2024 to get his non-bailable warrant cancelled, the petitioner/accused has not complied the directions of this Court till date. This contumacious and contemptuous conduct of the petitioner/accused further shows that the '*Medical Certificate*' (*Annexure no.6 to the petition*) was forged one to fabricate the false evidence.

It is pertinent to observe that **Section 269 of B.N.S., 2023** says that *whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.*

This Court is of the view that petitioner/accused has willfully and intentionally did not appear before the trial court after obtaining bail, therefore, has forfeited his bail bond.

8. On query of the Court, the learned counsel



for the petitioner/accused would fairly concede that the petitioner/accused has not contacted him ever since the last order dated 18.11.2024 was communicated to him. *Prima facie* the petitioner/accused has committed an offence punishable under Section 269 of B.N.S., 2023.

9. It is trite that the powers under Section 528 B.N.S.S. have to be exercised sparingly, carefully and with caution and only to prevent abuse of process of any Court or otherwise to secure ends of justice.

10. Having considered the submissions of the counsel for the parties and after going through the record available on file, this Court is of the considered view that it is not a fit case in which the High Court should invoke its inherent jurisdiction under Section 528 of B.N.S.S.

11. Accordingly, the present C-528 petition is hereby dismissed.

12. The copy of this order be sent to the learned trial court concerned for necessary action as per B.N.S., 2023 to initiate the proceedings against the petitioner/accused for the offence punishable under



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Section 269 of B.N.S., 2023 and against the doctor who fabricated the '*Medical Certificate*' for petitioner/accused for being used as evidence.

13. The Registry is directed to send the Annexure No.6 to the petition in original, to the trial court concerned by placing certified copy of the same on record.

(Vivek Bharti Sharma, J.)
08.05.2025

Akash