

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

**CRM-M-31396-2023**

**Date of Decision: 03.07.2023**

Avinash Shukla @ Avinash

....Petitioner

Versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

**Present:** Mr. Karandeep Singh Sidhu, Advocate  
for the petitioner.

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**ARUN MONGA, J. (ORAL)**

Petition herein is for quashing of an order dated 03.04.2023 (Annexure P-4), whereby Ld. Additional Sessions Judge, Ludhiana issued non-bailable warrants for arrest of petitioner and another order dated 25.05.2023 (Annexure P-6), whereby bail order was ordered to be cancelled and bail bonds and surety bonds were forfeited in the proceedings arising out of FIR No.39 dated 28.02.2017, under Sections 307, 332, 353, 186, 427 IPC, registered at Police Station Dakha, District Ludhiana.

2. Notice of motion.

3. On the asking of Court, Mr. Dhruv Dayal, Additional Advocate General, Punjab accepts notice and opposes the petition.

4. Petitioner was arrested in course of investigation of the above said FIR. He was later granted the concession of regular bail by Ld. Additional Sessions Judge vide order dated 01.04.2017 (Annexure P-2).

Charges were framed against petitioner as well as other co-accused on 07.12.2022. After framing of charges, matter was first time listed for trial on 31.01.2023. Petitioner was present before Ld. Trial Court when the case was adjourned to 03.04.2023. However, on the next date i.e. on 03.04.2023, when the case was called out, petitioner was not present before Ld. Additional Sessions Judge. On that very day, non-bailable warrants of arrest were ordered to be issued against the petitioner. Resultantly, on the next date of hearing i.e., 25.05.2023, since the petitioner was not having interim protection of his arrest, he was advised to not appear before Ld. Trial Court without seeking appropriate remedy. However, on 25.05.2023, bail of petitioner was also cancelled and bail bond along with surety bond were ordered to be forfeited to the State. Hence, the instant petition.

5. Learned counsel for petitioner states that though the petitioner instructed his counsel to file application seeking his exemption from personal appearance on 03.04.2023, but inadvertently the same was not filed by the learned counsel. Non-appearance of petitioner was thus neither intentional nor willful.

6. On the other hand, learned State counsel submits that learned trial Court rightly cancelled the bail of petitioner since he deliberately chose not to appear on the date fixed and violated the terms of bail bonds.

7. Heard.

8. No doubt, learned trial Court has got the discretion to cancel the bail, however, it is well settled that before passing such an order, Court is required to issue notice to the accused so as to afford him an opportunity to

explain as to why the bail should not be cancelled. Such course has not been adopted by learned Additional Sessions Judge in the instant case. On this ground alone, the impugned order to the extent of cancellation of bail deserves to be set aside.

9. In the premise, impugned orders are set aside. Earlier bail order stands revived on bail bond and surety bond already furnished by petitioner before learned trial Court. Petitioner is directed to join the proceedings before learned trial Court within 15 days from today and shall continue to appear before learned trial Court without default.

10. In the parting, I may hasten to add that cancellation of bail is a serious matter and can have significant impact on the life of a person. Matters of personal liberty ought not to be taken so lightly and in such mechanical manner as in the case herein.

11. Pending application(s), if any, shall also stand disposed of.

( ARUN MONGA )  
JUDGE

July 03, 2023  
ashish

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