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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-52157 of 2023 (O&M)
DATE OF DECISION: 13.10.2023****Gurnam Singh****...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Kamal Narula, Advocate,
For the petitioner.

Mr. Dhruv Dayal, Addl. AG, Punjab.

ARUN MONGA, J. (ORAL)

Petition herein is under Section 482 Cr.P.C seeking quashing of order dated July 05, 2023 (Annexure P-5) passed by learned Sessions Judge, Ferozepur, whereby petitioner's bail was cancelled, his bail/surety bonds were forfeited to State and warrants of arrest were issued against him in case FIR No.171 dated August 17, 2017, registered under Sections 489-A, 489-B, 489-C, 420 of Indian Penal Code, 1860 (for short 'IPC') at the Ghall Khurd, Police Station in Ferozepur.

2. Per the First Information Report (FIR), on August 17, 2017, Inspector Avtar Singh, along with a police party, was on patrolling duty in a government vehicle with registration number PB-05-L-5654. While they were present at the main chowk in Talwandi Bhai, an informant approached him and provided information that Gurnam Singh (the present petitioner) had used counterfeit currency notes in the market and had prepared paper packets. Gurnam Singh was carrying a bag around his neck and waiting for a bus from the side of Moga, potentially to be caught red-handed. Acting on this information, the accused was apprehended, and upon checking the bag he was carrying, ten counterfeit Indian currency notes with a denomination of Rs. 2,000 each were recovered. The petitioner was subsequently arrested, and an investigation was carried out.

3. The learned counsel for the petitioner argues that the petitioner was falsely implicated in the case. He was granted bail by the learned Additional Sessions Judge

on September 26, 2017. His statement under Section 313 of the Cr.P.C was recorded on April 26, 2023. The case was then adjourned for May 10, 2023, for the presentation of defense evidence. However, the petitioner mistakenly noted the wrong date and failed to appear on July 05, 2023.

3.1. The learned counsel for the petitioner further asserts that after being granted bail, the petitioner consistently appeared before the learned trial Court from September 26, 2017, to July 05, 2023, without any defaults during this period.

3.2. The learned counsel would further argue that the petitioner's non-appearance on 05.07.2023 was neither willful nor intentional. He had been regularly attending the trial for over six years. However, without issuing any prior notice to the petitioner, the learned trial Court cancelled his bail and surety bonds and issued non-bailable warrants, without giving him an opportunity to be heard. Consequently, the impugned order is unsustainable in law.

4. Per contra, learned State counsel opposes the petition and contends that bail granted to petitioner was rightly cancelled by learned Court below since he deliberately chose not to appear on the date fixed and violated the terms of bail bonds.

5. No doubt, learned trial Court has got discretion to cancel the bail. However, 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. In “**Raghuvansh Dewanchand Bhasin v. State of Maharashtra and another**”¹, the Apex Court after taking into account several precedents, elucidated the following:

“9. It needs little emphasis that since the execution of a non-bailable warrant directly involves curtailment of liberty of a person, warrant of arrest cannot be issued mechanically, but only after recording satisfaction that in the facts and circumstances of the case, it is warranted. The Courts have to be extra-cautious and careful while directing issue of non-bailable warrant, else a wrongful detention would amount to denial of constitutional mandate envisaged in Article 21 of the Constitution of India. At the same time, it is no gainsaying that the welfare of an individual must yield to that of community. Therefore, in order to maintain rule of law and to keep the society in functional harmony, it is necessary to strike a balance between an individual’s rights, liberties and privileges on the one hand, and the State on the

*other. Indeed, it is a complex exercise. As Justice Cardozo puts it “on the one side is the social need that crime shall be repressed. On the other, the social need that law shall not be flouted by the insolence of office. There are dangers in any choice.” Be that as it may, it is for the court, which is clothed with the discretion to determine whether the presence of an accused can be secured by aailable or non-ailable warrant, to strike the balance between the need of law enforcement on the one hand and the protection of the citizen from highhandedness at the hands of the law enforcement agencies on the other. The power and jurisdiction of the court to issue appropriate warrant against an accused on his failure to attend the court on the date of hearing of the matter cannot be disputed. Nevertheless, such power has to be exercised judiciously and not arbitrarily, having regard, inter alia, to the nature and seriousness of the offence involved; the past conduct of the accused; his age and the possibility of absconding. (Also See: **State of U.P. v. Poosu & Anr., (1976) 3 SCC 1.**)”*

6. In the instant case, there being sufficient reasons beyond control of the petitioner which caused his default on solitary date of hearing, I am of the view that impugned order deserves to be set aside. It is so ordered accordingly. Earlier bail order stands revived on bail bond and surety bond already furnished by petitioner before learned trial Court. Petitioner is directed to join proceedings before learned trial Court within three weeks from today and shall continue to appear before learned trial Court without any default.

7. However, it is made clear that any observations and/or submissions noted herein above shall not have any effect on merits of the case as the same are for the limited purpose of deciding the instant petition alone and learned trial Court shall proceed in accordance with law without being influenced with this order.

8. Petition is accordingly allowed.

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

OCTOBER 13, 2023
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No