

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

CRM-M-13000-2024  
Date of decision: 13.03.2024

Sushant Malik ....Petitioner

Versus

State of Haryana ...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Sumer Singh Boparai, Advocate  
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

**HARPREET SINGH BRAR, J. (ORAL)**

The prayer in the present petition under Section 482 Cr.P.C. is for quashing/setting aside of impugned order dated 29.02.2024 (Annexure P-16) passed by the learned trial Court, whereby, the bail order has been cancelled and bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State followed by issuance of non-bailable warrants in case bearing FIR No.343 dated 18.06.2022 under Sections 406/420/120-B/506 of IPC registered at Police Station Sadar Gohana.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and was regularly appearing before the learned trial Court through his counsel and his presence was exempted from time to time. But on 29.02.2024, the learned trial Court dismissed the application preferred by the petitioner seeking exemption from personal appearance till the filing of the challan and vide subsequent order of the same date, the learned trial Court cancelled the bail of the petitioner and his bail bonds were forfeited to the State without even issuing notice to him followed

by issuance of non-bailable warrants against him for 14.03.2024.

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of the petitioner as he was out of India looking after his ailing wife.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

5. Notice of motion.

6. Ms. Geeta Sharma, DAG, Haryana, who is present in Court, accepts notice for the respondent and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

8. A perusal of the order dated 29.02.2024 (Annexure P-16) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and wilful absence. The explanation offered for non appearance before the trial Court is justified and, therefore, the same is accepted.

9. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

10. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 29.02.2024 (Annexure P-16), vide which the bail bonds and bail order of the petitioner was cancelled and non-bailable warrants were issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of 15 days from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

(HARPREET SINGH BRAR)  
JUDGE

13.03.2024  
Neha

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