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

CRM-M-39997-2024

Date of decision: 20.08.2024

Shagandeep Singh @ Sagandeep Singh and others

....Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Rakesh Gupta, Advocate
for the petitioners.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of impugned orders dated 14.09.2022 (Annexure P-7) and dated 25.07.2024 (Annexure P-8) arising out of FIR No.98 dated 22.09.2019 under Sections 323/406/498-A/506 of IPC registered at Police Station Women Kaithal, District Kaithal and all consequent proceedings arising therefrom, whereby, the bail granted to the petitioners was cancelled by forfeiting the bail bonds to the State and warrants of arrest have been issued against the petitioners for 22.10.2024.

2. Learned counsel appearing for the petitioners *inter alia* contends that the petitioners were on bail and they have been charge sheeted for the offence punishable under Sections 323/406/498-A/506 of IPC vide order dated 24.02.2020 to which they pleaded not guilty and claimed trial and the case was adjourned to 11.05.2020 for prosecution evidence. Further, due to outbreak of Covid-19 pandemic the case before the learned trial Court was not taken up till

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15.11.2021 and the case was adjourned to 22.04.2022. On 22.04.2022, the appearance of the petitioners was exempted for that day as they have moved an application for the same and the case was adjourned to 14.09.2022. It is further submitted that on 06.05.2022, due to intervention of the panchayats of villages of the petitioners and respondent No.2, the parties effected a compromise and both the parties agreed to not to pursue any case and mutually dissolved their marriage by virtue of panchayati compromise and as such, the petitioners were under impression that they are not required to appear before any Court and thus, they failed to appear before the learned trial Court on 14.09.2022 (Annexure P-7) and also did not inform their counsel about the factum of compromise and due to their non-appearance, their bail bonds/surety bonds were cancelled and forfeited to the State and warrants were issued against them for 24.11.2022, 12.05.2023, 05.10.2023, 03.04.2024 and 25.07.2024 which remained unexecuted and now the fresh warrants of arrest has been issued against the petitioners for 22.10.2024 vide impugned order dated 25.07.2024 (Annexure P-8).

3. Learned counsel appearing for the petitioners submits that the non-appearance of the petitioners was not deliberate and intentional and thus, aggrieved by the said order, they have approached this Court by way of instant petition. It is contended that the impugned orders are liable to be set aside on the ground of unintentional non-appearance of the petitioners.

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

5. Notice of motion to official respondents only.

6. Ms. Geeta Sharma, DAG, Haryana who is present in Court,

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accepts notice for respondent No.1-State and submits that the impugned orders have been passed on the sole ground of the absence of the petitioners, however, it is not disputed by him that petitioners were 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 orders dated 14.09.2022 (Annexure P-7) and dated 25.07.2024 (Annexure P-8) reflect that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioners. 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 warrants of arrest is to secure presence of the accused before the trial Court. The petitioners in the present case have themselves come forward and have undertaken to appear before the

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trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the present petition is allowed, without issuing notice to respondent No.2 in order to save time of the Court and to avoid litigation expenses to be incurred on the part of respondent No.2 and the impugned orders dated 14.09.2022 (Annexure P-7) and dated 25.07.2024 (Annexure P-8), vide which the bail bonds and bail order of the petitioners were cancelled and warrants of arrest were issued, are hereby set aside.

12. The petitioners are directed to appear before the trial Court within a period of two weeks from today and on their doing so, they shall be admitted to bail on their furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.5,000/- to be deposited with the District Legal Services Authority, Kaithal, for wasting precious time of the Court.

13. The receipt of payment of costs imposed must be presented before the learned trial Court. The learned Court below is directed to grant bail to the petitioners only upon verification of the payment of said costs.

(HARPREET SINGH BRAR)
JUDGE

20.08.2024*Neha*

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