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

CRM-M-41005-2024

Date of decision: 27.08.2024

Inder Singh and another

....Petitioners

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR****Present:** Mr. A.S. Manaise, Advocate  
for the petitioners.

Mr. Subhash Godara, Addl.A.G., Punjab.

**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 order dated 03.06.2024 (Annexure P-5) passed by the learned Judicial Magistrate 1<sup>st</sup> Class, Hoshiarpur, whereby, the bail order has been cancelled and bail bonds/surety bonds of the petitioners have been cancelled and forfeited to the State followed by issuance of non-bailable warrants in case bearing FIR No.70 dated 02.05.2017 under Sections 498-A/406 of IPC registered at Police Station Sadar Hoshiarpur, District Hoshiarpur.

2. Learned counsel appearing for the petitioners *inter alia* contends that the petitioners were on anticipatory bail and the challan was filed against them by the police on 26.08.2019. In the meantime, the parties amicable settled the matter before this Court in TA-1061-2017 and consequently, settlement agreement dated 27.11.2018 was executed in the Mediation Centre of this Court as per which, petitioner No.1 transferred his land measuring 11 kanals in village Gazi Kot in favour of his grandson and later, the matter was again settled vide

compromise deed dated 25.02.2020 (Annexure P-4) in the Mediation Centre of this Court, on account of which, the petitioners were under impression that since the matter was settled, the case has come to an end. Thereafter, due to covid-19 pandemic, the complainant could not come to live in her matrimonial home as agreed and due to covid-19 restrictions, the Courts were also remained closed and the petitioners did not appear before the learned trial Court. On 19.07.2021, notice was issued to the petitioners and later on bailable and non-bailable warrants were issued against them. Ultimately, vide order dated 03.06.2024 (Annexure P-5) due to their non-appearance, their bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants were issued against them and now the case is fixed for 27.09.2024.

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 order is 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.

6. Mr. Subhash Godara, Addl.A.G., Punjab who is present in Court, accepts notice for the official respondent-State and submits that the impugned order has been passed on the sole ground of the absence of the petitioners, however, it is not disputed by him that petitioners were already on anticipatory bail and had been appearing before the trial Court.

7. I have heard learned counsel for the parties and perused the record

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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 03.06.2024 (Annexure P-5) reflects 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 non-bailable warrants 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 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 03.06.2024 (Annexure P-5), vide which the bail bonds and bail order of the petitioners was cancelled and non-bailable warrants were issued, is hereby set aside.

12. The petitioners are directed to appear before the trial Court within

a period of four 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.10,000/- to be deposited with the District Legal Services Authority, Gurdaspur for wasting precious time of the Court.

(HARPREET SINGH BRAR)  
JUDGE

27.08.2024  
Neha

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