

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48721-2024
Date of Decision: 27.09.2024

Inderjeet Kaur @ Indu and another ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.R. Rana-I, Advocate
for the petitioners.

Ms. Swati Batra, D.A.G., Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
152	08.07.2015	City Jagraon, District Ludhiana	22-61-85 of NDPS Act (Section 29 of NDPS Act added later on)

1. Challenging the order dated 29.09.2023 whereby non-bailable warrants against the petitioners were issued, the petitioners have come up before this court under section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS].
2. Notice served upon the official respondent through State counsel. The nature of order which this Court proposes to pass, there is no necessity of calling any response from the State.
3. The petitioners were earlier on bail; however, due to non-appearance, the bail was canceled vide order dated 29.09.2023 passed by Judge, Special Court, Ludhiana.
4. An analysis of the submissions and the petition would lead to the following outcome. It remains undisputed that when the petitioners approached this Court before passing of order declaring them proclaimed offenders, they took legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials caught them or tried to run away to avoid an appearance in Court. In such a situation, the petitioners have proved their case by a preponderance of probabilities and has prima facie established that their non-appearance was beyond their control. Although

there is a massive delay on the part of the petitioners, the petitioners on their own came before this Court, undertaking to attend the trial, and it is not the police who have been able to arrest.

5. Let the petitioners attend the trial because the criminal justice system must not hamper and suffer because of the petitioners.

6. The primary object of the service is to secure the accused's presence at trial. The petitioners approached this court independently, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet if the impugned order is quashed qua the petitioner(s). Thus, exercising the inherent powers under section 528 BNSS, it would be appropriate to grant the following limited relief to the petitioners, subject to the compliance of the conditions mentioned in this order.

7. The State's counsel submitted that if this Court is granting any concession to the petitioner, it must be subject to some reprimand. The petitioner's counsel declared that if this court imposes reasonable and affordable costs, the petitioners shall deposit the same.

8. Given above, the petitioners shall deposit Rs.10,000/- each in the PGI Poor Patients Welfare fund, Chandigarh and hand over the receipt to the trial Court.

9. The petitioners are directed to surrender before the concerned court **on or before 05.10.2024, 11 AM**. On or before this date, if the petitioners files bail application(s), the concerned trial court to grant bail to the petitioners on surrendering before the concerned Court as they were on bail earlier subject to furnishing bail bonds by imposing reasonable conditions deemed appropriate in the background of the accused's conduct. The petitioners are directed to appear on each date before the trial court and not to delay it.

10. There shall be a stay of the petitioner's arrest in the case mentioned till 05.10.2024 5.00 P.M. This stay is subject to the petitioner's surrender, failing which this protection shall also be recalled. It is clarified that if the petitioners appear before the concerned court, then all warrants issued by the concerned court against the petitioners in the matter mentioned above shall automatically stand recalled and canceled.

11. It is clarified that this order shall not be construed as an order of bail for which liberty is reserved to file before the appropriate Court if needed.

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12. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

13. *A certified copy of this order would not be needed, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the concerned court/ officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition is partly allowed to the extent mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

27.09.2024
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: NO.