

CRM-M-48841-2024



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48841-2024
Date of decision: October 01, 2024

Varinder Singh @ Varinder Mani
....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON’BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Ketan Chopra, Advocate for the petitioner.

Ms. Swati Batra, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
31	24.02.2021	City Nakodar, Jalandhar	392, 482 IPC & 25/54/59 Arms Act and Section 21 (b)/29/61/85 NDPS Act.

1. Challenging the order dated 27.08.2024 whereby arrest warrant was issued against the petitioner, the petitioner has 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 petitioner was earlier on bail vide order dated 31.05.2021 passed by Additional Sessions Judge, Jalandhar.
4. An analysis of the submissions and the petition would lead to the

following outcome. It remains undisputed that when the petitioner got to know

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about him being declared proclaimed offender, he took legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials caught him or he tried to run away to avoid an appearance in Court. In such a situation, the petitioner has proved his case by preponderance of probabilities and has prima facie established that his non-appearance was beyond his control. The petitioner within a short span on his own came before this Court, undertaking to attend the trial, and it is not the police who has been able to arrest.

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

6. The primary object of the service is to secure the accused's presence at trial. The petitioner 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 proclamation order is quashed qua the petitioner. Thus, exercising the inherent powers under Section 528 BNSS, it would be appropriate to grant the following limited relief to the petitioner, 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 petitioner shall deposit the same.

8. Given above, the petitioner shall deposit Rs.10,000/- each in the PGI Poor Patients Welfare fund and hand over the receipt of deposit to trial Court by the next date.

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9. The petitioner is directed to surrender before the concerned court on or before 12.10.2024, 11 AM. On or before this date, if the petitioner files bail application(s), the concerned trial court to grant bail to the petitioner on surrendering before the concerned Court as he was on bail earlier subject to furnishing bail bonds by imposing reasonable conditions deemed appropriate in the background of the accused's conduct. The petitioner is 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 12.10.2024 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 petitioner appears before the concerned court, then all warrants issued by the concerned court against the petitioner in the matter mentioned above shall automatically stand recalled and cancelled.

11. It is clarified that if the petitioner fails to appear before the concerned court within the time limit mentioned in this order, then this order shall be recalled automatically under Section 403 read with Section 528 of BNSS, 2023, without any further reference to this court.

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.

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

October 01, 2024

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Whether speaking/reasoned
Whether reportable:

(ANOOP CHITKARA)
JUDGE

Yes/No
Yes/No