

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

Sr. No.119

CRM-M-56797-2024

Date of decision : 03.12.2024

GAURAV SHARMA @ GAGAN @ GAURAV SHAMA

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

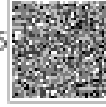
Present: Mr. P.S.Sekhon, Advocate for the petitioner.

KIRTI SINGH, J. (Oral)

This petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, read with Section 482 of the Code of Criminal Procedure, seeks the quashing of impugned orders dated 01.04.2024 (Annexure P/5) and 18.09.2024 (Annexure P/8) passed by the Learned Judge, Special Court, Barnala in FIR No. 123 dated 15.08.2020, registered under Sections 18 and 25 of the NDPS Act, 1985, Police Station Barnala whereby learned trial Court cancelled the petitioner's bail and forfeited the bail bonds/surety bonds to the State and issued non-bailable warrants of arrest against the petitioner.

2. Learned counsel for the petitioner submits that the petitioner was granted concession of bail in afore-stated FIR by the learned trial Court and he was regularly appearing before the trial Court. He further submits that the petitioner wrongly noted the date and could not appear on two dates i.e. 27.02.2024 and 01.04.2024 and resultantly the learned trial Court

cancelled the bail and the bail bonds/surety bonds were also forfeited to the



State. He also submits that non-appearance of the petitioner was neither intentional nor wilful. He further submits that the petitioner is ready to appear before the learned trial Court and abide by all the terms and conditions as may be imposed upon them by the learned trial Court.

3. On advance notice, Mr. Gurpartap Singh Bhullar, AAG, Punjab accepts notice on behalf of respondent-State. Learned State counsel opposes the prayer made in the petition and has argued that the learned trial Court had rightly cancelled the bail bonds/surety bonds of the petitioner.

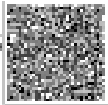
4. Heard.

5. The objective of the coercive mechanism prescribed under the Bharatiya Nagarik Suraksha Sanhita, 2023 (earlier the Code of Criminal Procedure) is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

6. On hearing learned counsel for the petitioner and perusing the record, it is apparent that the petitioner was granted bail by the learned trial Court. However due to a misimpression regarding the date, he could not appear before the learned trial Court on two dates i.e. 27.02.2024 and 01.04.2024 and on account of the same, warrants of arrest were issued against the petitioner. The petitioner is ready to appear before the learned trial Court and face the trial.

7. This Court finds that no useful purpose will be served by sending the petitioner in custody when they were continuously appearing before the trial Court but could not appear on two dates i.e. 27.02.2024 and

01.04.2024.



8. In view of the above, the present petition is allowed. Orders dated 01.04.2024 (Annexure P/5) and 18.09.2024 (Annexure P/8) are hereby set aside **subject to payment of cost of Rs.10,000/- by the petitioners to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh within one week from today.** The petitioner after depositing the cost as stated above would appear before the trial Court on 05.12.2024 and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner on same bail bonds/surety bonds. No coercive action would be taken against the petitioner till then. In case, the petitioner fails to appear before the learned trial Court on said date or fails to deposit the cost as stated above, this order would be of no avail to the petitioner.

(KIRTI SINGH)
JUDGE

03.12.2024
Kavita

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