

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Sr. No.124

CRM-M-62318-2024

Date of decision : 18.12.2024

TOTA SINGH ALIAS GURPAL SINGH

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Omkar Chauhan, Advocate for
Mr. Vishav Bahl, 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 order dated 21.05.2024 (Annexure P/3) passed by the Learned Additional Sessions Judge, Amritsar in FIR No.195 dated 09.11.2015, registered under Sections 323, 324, 452, 148 and 149 of IPC (Sections 326, 325, 450 of IPC added later on and Section 452 of IPC deleted later on), Police Station Kamboj, District Amritsar Rural.

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 due to miscommunication regarding date of hearing, he could not appear on 21.05.2024 and resultantly the learned trial Court cancelled the bail and the bail bonds/surety bonds were also forfeited to the State. Non-

available warrants issued vide order dated 21.05.2024 and 28.08.2024 were



received back unserved. Again non-bailable warrants were issued against petitioner for 30.11.2024. 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.

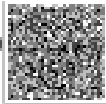
3. On advance notice, Mr. Gurpartap Singh Bhullar, AAG, Punjab accepts notice on behalf of respondent-State. Learned State counsel opposes the prayer made in the petition and has argued that the learned trial Court had rightly cancelled the bail bonds/surety bonds of the petitioner.

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 miscommunication regarding the date, he could not appear before the learned trial Court on one date i.e. 21.05.2024 and on account of the same, his bail was cancelled and 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 three dates i.e. 21.05.2024, 28.08.2024 and 30.11.2024.

8. In view of the above, the present petition is allowed. Order dated 21.05.2024 (Annexure P/3) is hereby set aside. The petitioner would appear before the trial Court within a week and file appropriate application. 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 within prescribed period as stated above, this order would be of no avail to the petitioner.

(KIRTI SINGH)
JUDGE

18.12.2024
Kavita

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