



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

134

CRM-M-3016-2025

Date of decision: 20.01.2025

Gursharan Singh @ Jaali

...Petitioner

V/s

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Munish Kamboj, Advocate for the petitioner.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023 seeking quashing of the order dated 03.12.2024 (Annexure P-1) passed by the learned Sessions Judge, Sirsa whereby bail granted to the petitioner stands cancelled and his bail bonds and surety bonds are forfeited to the State as also order dated 04.12.2024 (Annexure P-2) passed by learned Sessions Judge, Sirsa vide which the warrant of arrest had been issued against the petitioner and notice to his sureties as well as identifier were issued in case bearing No.SC-246-2021 arising out of FIR No.197 dated 13.10.2020 registered under Sections 379-A, 392 read with Section 34 of IPC at Police Station Ding, District Sirsa.

2. Learned counsel for the petitioner has iterated that the petitioner had been earlier granted the concession of regular bail by learned Sessions Judge, Sirsa vide order dated 04.02.2022 and was regularly appearing before the trial Court. Learned counsel has further iterated that on 03.12.2024, the petitioner had gone to Batala, District Gurdaspur (Punjab), to attend the funeral ceremony of a close relative and hence making it impossible for the



petitioner to attend the Court proceedings on the said date. Learned counsel has further submitted that an application for exemption from personal appearance was moved by the counsel for the petitioner before the Sessions Court, Sirsa. However, the Sessions Court rejected the application, cancelled the bail of the petitioner and forfeited the bail and surety bonds to the State vide its order dated 03.12.2024. Learned counsel asserts that after the cancellation of bail, the Sessions Court, scheduled the next hearing for 04.12.2024, the very next day. Due to the unexpected short date, neither the petitioner nor his counsel appeared in the Court as they had not anticipated the date. According to learned counsel, it was practically impossible for the petitioner to return from Batala and appeared before the trial Court the following day. Consequently, the petitioner was unable to attend the hearing on 04.12.2024 as well. Accordingly, the Sessions Court issued a warrant of arrest against the petitioner vide its order dated 04.12.2024. Learned counsel submits that the denial of the exemption application of the petitioner and subsequently issuance of warrant of arrest was harsh, disproportionate and contrary to the principles governing judicial discretion, particularly when the absence of the petitioner was due to the aforementioned reasons, which were neither intentional nor deliberate. Learned counsel has further iterated that the petitioner unequivocally undertakes to enter appearance before the trial Court as also join the proceedings in accordance with law, the petitioner shall appear before the trial Court on each and every date of hearing and also cooperate therein, in accordance with law for a expeditious culmination of the trial.

3. Notice of motion.



4. Ms. Ankita Ahuja, AAG Haryana, who is present in Court, accepts notice on behalf of the State of Haryana. She has opposed the petition in hand by arguing that the allegations against the petitioner are serious in nature, the petitioner has misused the concession of bail earlier extended to him by not appearing before the trial Court & no plausible explanation has been brought forth as to why the petitioner did not appear before the trial Court on the aforesaid dates.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. At this juncture, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429***, relevant whereof reads as under:

“10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.

11. We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours, the function of bail is limited, 'community roots' of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the



deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.

12. *A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution."*

6.1. Further, the Hon'ble Supreme Court in a judgment titled as ***Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118***, has held as under:-

*"Where the granting of bail lies within the discretion of the **court**, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the **court**, the primary inquiry is whether a recognizance or bond would effect that end."*

6.2. Furthermore, the Hon'ble Supreme Court in a judgment titled as ***Sanjay Chandra vs. CBI (2012) 1 SCC 40***, has held as under:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after



conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances."

7. Keeping in view the entirety of the facts and circumstances of the case; especially the factum of the prime object of cancellation of bail and forfeiture of bail bonds being securing the presence of the accused, the petitioner-accused having come forward himself to face trial, willingness shown by the petitioner-accused to appear before the trial Court on each and every date in accordance with law, the petitioner having submitted that he shall cooperate for an expeditious culmination of the trial & there being no tangible material brought forward to indicate the likelihood of the petitioner to interfere with the prosecution evidence; this Court is the considered opinion that the petition in hand deserves to be allowed.

8. It is, thus, directed as follows:

(i) The impugned orders dated 03.12.2024 (Annexure P-1) as also the order dated 04.12.2024 (Annexure P-2) passed by learned Sessions Judge, Sirsa are set-aside subject to the petitioner appearing before the trial/concerned Court on or before 23.01.2025 & shall furnish an undertaking that the petitioner shall continue to appear before the trial/concerned Court on each and every date of hearing. It is clarified that the trial/concerned



Court shall be at liberty to impose such other condition(s) upon the petitioner, as deemed appropriate by it in the facts and circumstances of the case.

(ii) The petitioner shall deposit costs of Rs.15,000/- with the Punjab and Haryana High Court Employees Welfare Association, details of the bank account whereof are as under:

Punjab and Haryana High Court Employees Welfare Association
Account No.37167209613
IFSC Code:-SBIN0050306
State Bank of India, High Court Branch,
Chandigarh.

It is clarified that payment of the aforesaid costs and production of receipt/proof thereof before the trial/concerned Court shall be condition precedent. In absence of deposit of such costs, the present petition would be deemed to be dismissed without any further reference to the Bench.

(iii) Pending application(s), if any, stands disposed of.

(SUMEET GOEL)
JUDGE

January 20, 2025
Ajay

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