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

CRM-M-3721-2025

Date of decision: 23.01.2025

Ramesh Kumar @ Meshi

....Petitioner

Versus

M/s Basdev Aggarwal and Sons and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Rahul Rampal, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing/setting aside of impugned order dated 13.09.2024 (Annexure P-4) passed by the learned Additional Sessions Judge, Bathinda in appeal bearing No. CRA-541-2023 titled as 'M/s Luxmi Trading Co. Versus M/s Basdev Aggarwal and Sons' whereby, the bail order has been cancelled and bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State followed by issuance of non-bailable warrants for 24.01.2025.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner is suffering from 70% of Locomotor permanent disability and needs external human help to visit Court to attend the proceedings and on 13.09.2024, since there was no help available, he could not appear before the learned trial Court and due to his non-appearance, his bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants along with notice to his surety were issued.

3. Learned counsel appearing for the petitioner submits that the non-

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appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of the petitioner.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

5. I have heard learned counsel for the petitioner and perused the record of the case with his able assistance and the matter is taken up for final disposal.

6. A perusal of the order dated 13.09.2024 (Annexure P-4) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and wilful absence. The explanation offered for non appearance before the trial Court is justified and, therefore, the same is accepted.

7. While the scheme of criminal justice system necessitates curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

8. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the trial Court. The petitioner in the present

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case has himself come forward and has undertaken to appear before the trial Court on each and every date.

9. In view of the aforesaid facts and circumstances, the present petition is allowed, without issuing notice to the respondents in order to save time of the Court and to avoid litigation expenses to be incurred on the part of the respondents and the impugned order dated 13.09.2024 (Annexure P-4), vide which the bail bonds and bail order of the petitioner was cancelled and non-bailable warrants were issued, is hereby set aside.

10. The petitioner is directed to appear before the trial Court within a period of two weeks from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.5,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

11. The receipt of payment of costs imposed must be presented before the learned trial Court. The learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

12. However, in case, the petitioner fails to surrender before the learned trial Court within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

23.01.2025*Neha*

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