



133

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

CRM-M-4354-2025

Date of decision: 27.01.2025

Vikas Saini alias Honey Saini

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. J.S. Sekhon, Advocate
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of impugned order passed by the learned Additional Sessions Judge, Rupnagar in case bearing FIR No.227 dated 06.12.2021 under Sections 21/22/61 of NDPS Act, registered at Police Station City Rupnagar, District Rupnagar i.e. order dated 28.11.2024 (Annexure P-4) vide which the bail order of the petitioner was cancelled and bail bonds/surety bonds were cancelled and forfeited to the State followed by issuance of non-bailable warrants against him and order dated 15.01.2025 (Annexure P-6) vide which proclamation of the petitioner was issued along with all subsequent proceedings arising therefrom.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and was regularly appearing before the learned trial Court and thereafter, on two dates, he could not appear and also moved an application for exemption from his personal appearance. Thereafter,

**CRM-M-4354-2025****-2-**

on 28.11.2024, the petitioner could not appear and due to his non-appearance, his bail order as well as bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants along with notice to his surety were issued. Thereafter, proclamation proceedings were also initiated against him vide order dated 15.01.2025 (Annexure P-6).

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said orders, he has approached this Court by way of instant petition. It is contended that the impugned orders are 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. Notice of motion.

6. Mr. Subhash Godara, Addl.A.G., Punjab who is present in Court, accepts notice for the respondent and submits that the impugned orders have been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

8. A perusal of the order dated 28.11.2024 (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.

9. 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.

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

11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 28.11.2024 (Annexure P-4), vide which the bail bonds and bail order of the petitioner were cancelled and non-bailable warrants were issued, and order dated 15.01.2025 (Annexure P-6) vide which proclamation of the petitioner was issued, are hereby set aside.

12. 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 the same bail bonds and surety bonds already furnished by him, to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

13. 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.
14. 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

27.01.2025
Neha

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