



140 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-7043-2025 (O&M)

Date of Decision: 06.02.2025

ARVIND KUMAR ALIAS ARVIND

...Petitioner

V/S

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gaganvir Singh Gill, Advocate
for the petitioner.

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

HARPREET SINGH BRAR J. (Oral)

1. The prayer in the present petition under Section 528 of BNSS is for quashing the impugned order dated 29.11.2024 (Annexure P-4) passed by the learned Additional Sessions Judge, Patiala, whereby, the bail order of the petitioner has been cancelled and his bail bonds/surety bonds have been forfeited to the State followed by issuance of non-bailable warrants in case bearing FIR No. 0164 dated 25.12.2021 (Annexure P-1) under Section 18 of NDPS Act (Section 29 of NDPS Act added later on) registered at Police Station Sanaur, District Patiala in criminal case No. NDPS/184/2022 titled as "*State Vs. Arvind Kumar @ Arvind and Others*".

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail in the FIR(supra) and was regularly appearing before the learned trial Court but due to some miscommunication with his counsel about the adjourned date, the petitioner could not appear before the learned trial Court on 29.11.2024. Therefore, learned trial Court cancelled the bail of the petitioner vide impugned order dated 29.11.2024 (Annexure P-4) due to his non-appearance and his bail bonds/surety bonds were 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-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 due to miscommunication with the counsel 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 order has 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 29.11.2024 (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 29.11.2024 (Annexure P-4), vide which the bail order of the petitioner was cancelled and non-bailable warrants were issued, is 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 his furnishing bail bonds and surety bonds 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 upon the petitioner must be presented before learned jurisdictional/Illaqha Magistrate.

14. It is made clear that in case the petitioner does not appear before the learned trial Court within the stipulated period, the interim protection granted by this Court shall be deemed to be vacated.

06.02.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>