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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8241-2025 (O&M)
Date of decision: 15.02.2025

Dushal @ Duggu

... Petitioner

Vs.

State of Punjab

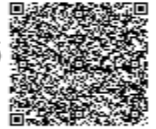
... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gurmehar Singh Minhas, Advocate and
Mr. Pulkit Sethi, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of the order dated 18.01.2025 passed by learned Additional Sessions Judge, Jalandhar, in FIR No.102 dated 23.10.2019 under Sections 323, 308, 506, 148, 149 IPC, registered at Police Station Jalandhar Cantt, District Police Commissionerate Jalandhar, vide which, while cancelling bail of the petitioner, his bail/surety bonds were forfeited to the State and non-bailable warrants have been issued.
2. Learned counsel for the petitioner, *inter alia*, contends that the



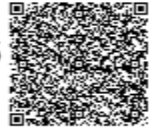
petitioner was on regular bail and he was regularly appearing before learned trial Court, however, due to noting of wrong date of hearing as 28.01.2025, the petitioner could not appear before learned trial Court on 18.01.2025. Due to his non-appearance on 18.01.2025, vide impugned order (Annexure P-2), learned trial Court, while cancelling bail of the petitioner, his bail/surety bonds were forfeited to the State and non-bailable warrants along with notice to his sureties were issued.

3. Learned counsel for the petitioner submits that non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the impugned 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 noting down the date wrongly.

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

5. Notice of motion.

6. Mr. Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State 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 learned trial Court.

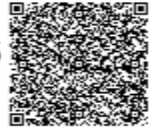


7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal today itself.

8. A perusal of the order dated 18.01.2025 (Annexure P-2) reflects that learned trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of the 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 learned 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 learned trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before learned 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 18.01.2025 (Annexure P-2), vide which, while cancelling bail of the petitioner, his bail/surety bonds were forfeited to the State and non-bailable warrants along with notice to the sureties were issued, is hereby set aside.

12. The petitioner is directed to appear before learned trial Court within a period of four weeks from today and on his doing so, he shall be admitted to bail on his furnishing fresh bail/surety bonds to the satisfaction of learned trial Court, along with costs of Rs.10,000/- to be deposited with All India Pingalwara Charitable Society, Jalandhar, for wasting precious time of the Court.

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

14. It is clarified that in case the petitioner fails to surrender before learned trial Court within the stipulated period, interim protection granted by this Court shall be deemed to be vacated.

[HARPREET SINGH BRAR]
JUDGE

15.02.2025
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No