



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

133

CRM-M-10889-2025 (O&M)

Date of decision: 27.02.2025

Kulwinder Singh @ Kinder

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gagandeep Singh Bajwa, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023, for quashing of order dated 09.08.2024 (Annexure P-2) passed by learned Additional Sessions Judge, Amritsar in FIR No.85 dated 09.09.2022 registered under Section 21 of the NDPS Act at Police Station Khilchian, District Amritsar, vide which bail order of the petitioner was cancelled and his bail/surety bonds were forfeited to the State and non-bailable warrants have been issued.

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, but on account of noting a wrong date of hearing, the petitioner could not appear before the learned Court below on 09.08.2024 and his bail order was cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants have been issued against him vide impugned order dated 09.08.2024 (Annexure P-2).



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

4. Notice of motion.

5. Mr. Sandeep Kumar, DAG, 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 learned trial Court.

6. 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.

7. A perusal of the order dated 09.08.2024 (Annexure P-2) reflects that the learned trial Court proceeded to pass the extreme order of cancellation of bail. 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.



8. 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.

9. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the learned trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the learned trial Court on each and every date.

10. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 09.08.2024 (Annexure P-2), vide which bail order of the petitioner was cancelled and bail/surety bonds were forfeited to the State and non-bailable warrants were issued, is hereby set aside.

11. The petitioner is directed to appear before the learned trial Court within a period of 02 weeks from today and on doing so, he shall be admitted to bail on furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court, along with costs of Rs.10,000/- to be deposited with All India Pingalwara Charitable Society, Amritsar, for wasting precious time of the Court.



12. 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.

13. 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

27.02.2025
yakub

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