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

**CRM-M-11571-2025**
**Date of decision: 01.03.2025**

**BAWA TRAVELS AND ANOTHER**

**...PETITIONERS**

**V/S**

**STATE OF PUNJAB AND ANOTHER**

**...RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Sukhbir Mandi, Advocate for the petitioners.

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**HARPREET SINGH BRAR, J. (ORAL)**

1. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of orders dated 07.02.2025 (Annexure P-3) and 19.02.2025 (Annexure P-4) passed by learned Additional Chief Judicial Magistrate, Tarn Taran, whereby, the bail of the petitioner No.2 has been cancelled and his bail bonds/surety bonds have been forfeited to the State followed by issuance of non-bailable warrants in a complaint filed under Section 138 of Negotiable Instruments Act.

2. Learned counsel for the petitioners submits that the petitioner No.2 was on regular bail in the FIR (*supra*) and was regularly appearing before the learned trial Court but due to the compelling circumstances, petitioner No.2 could not appear before the learned trial Court on 07.02.2025. He filed an application seeking exemption from his personal appearance along with the medical certificate on that day, however, learned trial Court declined the application for exemption from his personal appearance and cancelled the bail of the petitioner 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.

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3. Learned counsel for the petitioners *inter alia* contends that the non-appearance of the petitioner No.2 was not deliberate or intentional and thus, aggrieved by the said orders, he has approached this Court by way of instant petition. It is contended that the impugned order are liable to be set aside on the ground of unintentional non-appearance of the petitioner No.2 due to his illness.

4. It is also submitted that the petitioners undertake 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-State and submits that the impugned orders have been passed on the sole ground of the absence of the petitioners, however, it is not disputed by him that petitioners were 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. 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

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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 petitioners in the present case have themselves come forward and have 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 orders dated 07.02.2025 (Annexure P-3) and 19.02.2025 (Annexure P-4), vide which, the bail bonds and bail order of the petitioner No.2 was cancelled and non-bailable warrants were issued, are hereby set aside.

12. Petitioner No.2 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 All India Pingalwara Charitable Society, G.T. Road, Amritsar for wasting precious time of the Court.

13. It is made clear that in case, petitioner No.2 fails to appear before the trial Court within a stipulated period and to deposit the aforesaid cost, the interim protection granted by this Court shall be deemed to be vacated.

**(HARPREET SINGH BRAR)**
**JUDGE**

**March 01, 2025**
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(i) Whether speaking/reasoned Yes/No
(ii) Whether reportable Yes/No

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