



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

132

CRM-M-12198-2025
Decided on : 04.03.2025

Sukhchain Singh

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Anosh Samson, Advocate
for the petitioner(s).

Mr. Amandeep Singh, DAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. Instant petition, under Section 528 of the BNSS, 2023 (earlier Section 482 Cr.P.C.), has been filed for quashing of the order dated 08.11.2024 (Annexure P-4), passed by Ld. Judicial Magistrate First Class, Batala, in complaint case No. 02/NACT/2020, titled as, “M/s Shri Achleshwar Fincaps Limited v. Sukhchain Singh”, filed under Section 138 of Negotiable Instruments Act, 1881 (in short, ‘NI Act’), whereby after cancelling the bail of the petitioner, non-bailable warrants have been issued against him.

2. As per allegations in the complaint filed before the Court below, on 18.05.2017, accused (petitioner herein) borrowed a sum of Rs.70,000/- from complainant (respondent No.2 herein), for purchasing the second hand Bullet Motorcycle, and in discharge of his loan liability, petitioner/accused issued a cheque No. ‘000109’, dated 16.11.2019, for a sum of Rs.96,400/-, drawn on HDFC Bank Limited, in favour of the complainant/respondent

No.2.

As per the contention of learned counsel for the petitioner, petitioner has not committed the alleged offence and there is no direct evidence available against the petitioner. After granting concession of bail, petitioner was facing trial and regularly appearing on the fixed dates before the trial Court. However, due to noting of wrong date and thereafter, some unavoidable family problems, he failed to appear before the trial Court on several dates, such as; 17.08.2024, 28.08.2024, 29.08.2024, 06.09.2024, 20.09.2024 and 11.10.2024 (copies of orders appended as Annexures P-2 & P-3, respectively).

Finally, on 08.11.2024 (P-4), due to petitioner's continuance non-appearance, his bail bonds were cancelled and non-bailable warrants of arrests had been issued against him. Besides, it is also relevant to note that on 17.01.2025, proclamation proceedings have also been initiated against the petitioner.

3. Learned counsel points out that till now, petitioner has not been declared as 'proclaimed offender'. However, the absence of the petitioner was neither intentional nor deliberate, but he defaulted due to the reasons, mentioned here-above.

4. Learned Counsel further submits that now petitioner is ready to join the process of law, however, he be directed to be released on bail, on his surrendering before the Court and thus, be protected from arrest. In case, one opportunity is granted, petitioner also undertakes that he would not absent himself in future, without there being prior permission from the Court, and fully cooperate for early disposal of the trial.

5. Notice of motion.

6. Learned State counsel puts an appearance, and opposes the request of the petitioner by submitting that petitioner does not deserve any sympathy, because, he has misused the concession of bail granted by the Court. Learned State counsel by pointing out the irresponsible conduct of the petitioner, submits that there is every possibility that for the purpose of delaying the trial, he would again be absenting during the proceedings.

7. In number of cases, this Court has been experiencing the situation wherein, accused stopped appearing before trial Court in the criminal cases after being released on bail and thereby compelling the Court to issue non-bailable warrants by cancelling the bail already granted or such accused has been declared 'Proclaimed Person'/Proclaimed Offender'. After examining the facts from several cases, this Court has formulated and applied a uniform method by satisfying itself that such accused would appear before the concerned Court, to enable it to proceed further, instead of delaying the proceedings to await the presence of accused.

Intentional or unintentional default of the accused can be dealt with by examining the facts from case to case in which he is involved, and where it is realised that absence or prolonged absence of such accused is intentional to evade the process of law, he/she can be penalized after examining the nature of crime in which he is facing the proceedings and thereupon by imposing some cost amount subject to his/her capacity to pay.

Primary object of every Court is only to examine the commission of crime in question before it *vis a vis* the person/accused, who is subjected to such proceedings, and if possible justice be imparted at the earliest without unnecessary delay. It is not expected that undue time would be devoted in securing the presence of absconded accused and also to waste

energy by enforcing the special mechanism to arrest such accused.

Considering all such aspects, this Court in the case of *Ashish Kumar Honda @ Ashish Handa Vs. State of Punjab, 2022 (4) RCR (criminal) 765; Law Finder Doc Id # 20238111* considered similar plea of appearance, expressed at the instance of the accused, who failed to appear before the Court at appropriate time, and observed that:

“paramount consideration of the Court is to secure presence of accused on each and every date for speeding up the trial for its final conclusion. Already Courts are flooded with so much litigation, resulting in slow pace of work, because of more than one reason. The required energy and manpower be used for expediting the proceedings of the Court, instead of running after the accused persons to get hold of them.”

Again, this Court has considered the aforementioned similar plea in case *Veena @ Veena Devi v. State of Punjab (CRM-M-2206-2025, decided on 16.01.2025.*

8. I have considered the submissions of both the sides and examined the relevant material available on record. The petitioner has remiss in appearing before the Court due to the reasons mentioned here-above, and consequently, on 08.11.2024 (P-4), when impugned order cancelling the bail and issuance of non-bailable warrants of arrest, has been passed against him. It also cannot be left unnoticed that within three months of the absence from the Court, and on coming to know about passing of the impugned order, the petitioner has moved the present petition, showing his inclination to submit himself before the trial Court.

9. In the totality of circumstances, I am of the view that the petitioner can be given one chance to appear before the trial Court, so that proceedings may restart and continue in smooth manner. Accordingly, plea of the petitioner is accepted. Impugned order dated 08.11.2024 (P-4) is **set**

aside to the extent of issuance of non-bailable warrants against the petitioner, and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court on or before 21.03.2025.

The petitioner shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court, in case the bail bonds have already been forfeited. Besides, petitioner would also submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

However, this order shall be subject to the payment of Rs.10,000/- as costs, to be deposited by the petitioner in an Old Age Home of the area, as may be decided by the learned Trial Court. The Trial Court shall also specify the time frame within which such costs will be required to be deposited, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

10. **With aforementioned terms, present petition stands disposed of.**

(SANJAY VASHISTH)
JUDGE

March 04, 2025

J.Ram

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>