



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

CRM-M-12655-2025

Date of decision: 06.03.2025

AMIT KUMAR BHARATI @ CHOTTU

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Paras Jagga, Advocate for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of order dated 10.07.2024 (Annexure P-3) passed by learned Additional Sessions Judge, Ludhiana, whereby, the bail 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 a case stemming from FIR No.0004 dated 05.01.2021 registered under Sections 20/61 of NDPS Act at Police Station Moti Nagar, District Police Commissionerate Ludhiana.

2. Learned counsel for the petitioner submits that the petitioner was on regular bail in the FIR (*supra*) and was regularly appearing before the learned trial Court but due to illness, he could not appear before the learned trial Court on 10.07.2024. Upon his non-appearance, the learned trial Court cancelled the bail of the petitioner and his bail bonds/surety bonds were forfeited to the State and non-bailable warrants along with notice to his surety was issued.



3. Learned counsel for the petitioner *inter alia* contends that non-appearance of the petitioner was not deliberate or 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 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 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. 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 willful 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 10.07.2024 (Annexure P-3), vide which, the bail bonds and bail order of the petitioner were cancelled and non-bailable warrants were issued, is hereby set aside.

12. 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 Poor Patients Welfare Funds, PGIMER, Chandigarh for wasting precious time of the Court.

13. It is made clear that in case, petitioner 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.

March 06, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |