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

**CRM-M-15876-2025 (O&M)
Date of decision: 24.03.2025**

Om Murari Mishra

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nafees Ahmad Khan, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in case bearing FIR No.413 dated 11.11.2020 under Sections 20 & 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Sector 31, Faridabad, District Faridabad.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner was granted regular bail by learned Additional Sessions Judge,



Faridabad vide order dated 06.01.2021 (Annexure P-2). After submission of final report under Section 173 of the Code of Criminal Procedure, 1973 (*now Section 193 of BNSS*) and framing of charge, the petitioner was regularly appearing before learned trial Court. However, on 13.07.2022, the petitioner could not appear before learned trial Court, as he was suffering from viral fever and due to his non-appearance, vide order dated 13.07.2022, learned trial Court cancelled his bail and on 11.12.2024, non-bailable warrants were issued against him. Thereafter, the petitioner approached learned Sessions Court, Faridabad by filing an application seeking anticipatory bail, however, the same was dismissed vide order dated 05.03.2025 (Annexure P-3). Hence, the present petition.

3. Learned counsel for the petitioner submits that the petitioner undertakes to appear before learned trial Court on each and every date of hearing.

4. Learned State counsel appears on advance notice and opposes the prayer made by the petitioner on the ground that neither the petitioner appeared nor any application for exemption from personal appearance was moved, therefore, learned trial Court has rightly passed the aforesaid orders, for securing his presence.

5. Having learned counsel for the parties and after perusing the record of the case with their able assistance, this Court finds force in the



arguments raised by learned counsel for the petitioner. He has shown sufficient cause for non-appearance before learned trial Court.

6. A perusal of the record reflects that learned trial Court proceeded to pass the extreme order of cancellation of bail and thereafter, non-bailable warrants were issued against 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 willful absence. The explanation offered for non-appearance before learned trial Court is justified and, therefore, the same is accepted.

7. 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.

8. 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 of hearing.

9. In view of the aforesaid facts and circumstances, present petition



is allowed and the petitioner is directed to appear before learned trial Court within a period of two weeks from today and on his doing so, he will be admitted to bail on furnishing same bail/surety bonds to the satisfaction of learned trial Court/Illaqa Magistrate concerned.

10. However, this will be subject to deposit of costs of Rs.20,000/- with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

11. 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.

12. However, in case, the petitioner fails to surrender before learned trial Court within the stipulated time period, the interim protection granted by this Court shall be deemed to be vacated.

24.03.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No