



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CRM-M-15405-2025
Decided on : 21.03.2025

Happy Singh
Versus
State of Haryana
... Petitioner(s)
... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Fariad Singh Virk, Advocate
for the petitioner(s).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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 03.02.2025 (Annexures P-1 & P-2), passed by Ld. Special Judge, Fast Track, Fatehabad, in case titled as “State of Haryana v. Happy Singh” i.e. CIS No.NDPS-238-2021, whereby after cancelling the bail of the petitioner, warrants of arrest have been issued against him, on account of his non-appearance in the following FIR:-

FIR No.	Date	Section(s)	Police Station	District
118	08.09.2021	21(b) of NDPS Act, 1985	Jakhal	Fatehabad

2. Learned counsel for the petitioner submits that through present petition, petitioner – Happy Singh, aged 28 years, has assailed the order dated 03.02.2025, whereby, Ld. Special Judge, Fast Track under the NDPS Act, Fatehabad, after recording of the absence of the petitioner, cancelled his bail and issued warrants of arrest against him. For reference, the order

passed at the first instance on 03.02.2025 (P-2) is reproduced here-under:-

*“Present: Sh. H.S. Malik, Public Prosecutor for the State.
Accused Happy Singh on bail represented by Sh. M.L.
Goswami, Advocate.*

No PW is present. Summons issued to PW ASI Krisan and ASI Rohtash received back duly served but they have sent their request, which is perused and allowed.

Summons issued to PWs MHC Nar Sing and ESI Hardayal Singh received back duly served but they have not come present.

Summons issued to PW ESI Ram Sarup and ASI Ved Pal received back unserved.

Adjourned to 03.02.2025 for prosecution evidence. PWs mentioned at serial No. 2, 4 and 5 be again summoned for the said date.”

The second order passed on the same date i.e. on 03.02.2025 (P-1), is also reproduced as under:-

“Present: None

File put up again in view of report by Ahlmad. It has been reported by Ahlmad that on 03.02.2025, accused Happy was absent and his warrant of arrest was ordered to be issued for 17.04.2025 however while typing said order, a wrong date “03.02.2025 itself” has been mentioned therein and case has been wrongly fixed for prosecution evidence, while showing presence of accused Happy.

File perused. Perusal of file cover itself shows that on 03.02.2025, accused Happy was absent and his warrant of arrest were ordered to be issued for 17.04.2025 but due to inadvertent mistake, presence of accused was shown and case was wrongly fixed for prosecution evidence, instead of issuance of warrant of arrest against the accused, for wrong date i.e. 03.02.2025.

Since mistake is clerical and typographical one, same is hereby rectified accordingly. Stenographer is warned to be careful in future.

Since, accused Happy was absent on 03.02.2025 and his bail was cancelled on the said date itself, hence now warrant of arrest against accused Happy be issued for 17.04.2025, the date already fixed. Notice to his surety under Section 446 Cr.P.C. be also issued for the said date.”

3. Learned counsel for the petitioner argues that, in an unusual manner, the order has been reviewed by the trial Court itself without even given a chance to any of the parties, i.e., prosecution or the accused. Though in the first part of the impugned order, petitioner – Happy Singh, has been shown to be present along with counsel Sh. M.L. Goswami, Advocate. But very fairly, learned counsel submits before this Court that factually his client (petitioner herein) was not present. Therefore, the fact recorded in the second part of the order dated 03.02.2025, regarding absence of the petitioner

is correct.

He further submits that be that as it may, his client (petitioner herein) could not appear on that date, because of the noting down of wrong date and now, after coming to know of the lapse and consequences, petitioner has immediately approached this Court by way of filing present petition. Thus, submits that 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 next date fixed before the trial Court is 17.04.2025, and 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 only on one date, and consequently, on 03.02.2025, when impugned order cancelling the bail and issuance of warrants of arrest, has been passed against him. It also cannot be left unnoticed that within one month 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 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 (supra) is **set aside** to the extent of issuance of 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 **17.04.2025**, i.e., the next date of hearing, fixed before the trial Court.

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.

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

(SANJAY VASHISTH)
JUDGE

March 21, 2025

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No