



CRM-M-16003-2025

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

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CRM-M-16003-2025

Date of Decision: 24.03.2025

Simarjit Singh Bains

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. A.P.S. Deol, Senior Advocate with
Mr. Vishal R. Lamba, Advocate for the petitioner

Mr. Anurag Chopra, Addl. AG, Punjab

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed for recalling the order dated 28.02.2025, whereby the regular bail granted to the petitioner has been cancelled, as also the bail bonds and surety bonds furnished under Section 70(2) Cr.P.C. (now replaced by Section 74 BNSS, 2023) in case FIR No.19 dated 08.02.2022, under Sections 307, 427, 148, 149, 506, 188 IPC, Sections 25, 27 of the Arms Act, Section 51 of the Disaster Management Act, 2005, Section 3 of the Epidemic Disease Act, 1897, and Section 127 of the Representation of People Act, 1951 & 1988, registered at Police Station Shimlapuri, District Ludhiana.

2. Learned senior counsel contends that the petitioner was granted regular bail by this Court vide order dated 16.01.2023. One of the conditions



incorporated in the order was, “*During the trial's pendency, if the petitioner repeats or violates any condition as stipulated in this order, it shall always be permissible to the respondent to apply for cancellation of this bail. It shall further be open for any investigating agency to bring it to the notice of the Court seized of the subsequent application that the accused was earlier cautioned not to indulge in criminal activities. Otherwise, the bail bonds shall remain in force throughout the trial and after that in Section 437-A of the Cr.P.C., if not canceled due to non-appearance or breach of conditions.*” After grant of bail, the petitioner has been appearing before the trial Court, and charge has also been framed against him vide order dated 10.01.2025. On the subsequent date for trial, 28.02.2025, he was bed-ridden on account of having severe vertigo and upset stomach. The counsel representing him in the trial Court, despite having been informed about it along with a medical certificate, could not submit the exemption application on account of being occupied with the Bar elections. Therefore, the non-appearance was *bona fide* and unintentional, and the petitioner should not suffer due to lapse by his counsel in failing to make appropriate application for exemption from appearance. Still, the petitioner’s application seeking anticipatory bail was dismissed as not maintainable by the Sessions Court vide order dated 10.03.2025. Learned senior counsel further contends that the bail granted by this Court could not have been cancelled by the trial Court/ Sessions Court. He has also drawn the Court’s attention to the fact that vide impugned order, dated 28.02.2025, in case of other accused who failed to appear for various reasons, only the bail bonds and surety bonds were cancelled, and not the bail(s) granted to them (in some of the cases by this Court).



3. Leaned State counsel, on the contrary, contends that the order has been rightly passed as the petitioner has repeatedly been seeking exemptions from the trial Court on different grounds. And on account of his absence, non-bailable warrants were also issued on 12.08.2024.

4. Submissions made by learned counsel for the parties have been considered.

5. There is no dispute that the petitioner was admitted to bail by this Court vide order dated 16.01.2023. In case there was violation of any of the terms incorporated therein, it was open to the trial Court to cancel his bail bonds and surety bonds, but the bail granted by the High Court could only be cancelled by the High Court under Section 439 (2) Cr.P.C. after appropriate application to that effect by the State, and not by the Court of Sessions. Accordingly, the order dated 28.02.2025 is without jurisdiction to the extent it cancels the petitioner's bail.

6. At this stage, learned senior counsel contends that the trial Court, while dismissing the application for anticipatory bail vide order dated 10.03.2025, allowed the petitioner to appear/surrender before the Court within fifteen days, to explain the position and seek bail. In terms therewith, the fifteen days period expires tomorrow; the petitioner will surrender before the Court tomorrow, and prays that the issue regarding restoration of bail bonds be considered on the same day.

7. In view thereof, the order dated 28.02.2025, is set aside to the extent petitioner's regular bail has been cancelled. In case he surrenders before the trial Court tomorrow, his application seeking restoration of the bail and surety bonds, as also recall of the non-bailable warrants will be considered on



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the same day, provided he files an undertaking to the satisfaction of the trial Court that he shall regularly appear during trial, unless specifically exempted by the Court.

(TRIBHUVAN DAHIYA)
JUDGE

24.03.2025
Payal

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No