

2025:PHHC:174130



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-19314-2024

Vishal @ Vicky

....Petitioner

versus

State of Haryana

....Respondent

Date of decision: December 12, 2025

Date of Uploading: December 12, 2025

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Naveen S. Atri, Advocate for the petitioner.

Mr. Tarun Aggarwal, Additional AG Haryana.

SUMEET GOEL, J. (Oral)

The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') seeking quashing of the impugned order dated 01.07.2023 (Annexure P-2) passed by the learned Additional Sessions Judge, Ambala in case bearing No.NDPS/29/2018 titled as "State v/s Vishal" arising out of FIR No.114 dated 03.04.2018 (Annexure P-1), under Section 21 of the NDPS Act, 1985, registered at Police Station Ambala City, District Ambala, whereby bail granted to the petitioner has been cancelled and his bail bonds are forfeited to the State, and quashing of the impugned order dated 14.11.2023 (Annexure P-4) whereby the petitioner has been declared as Proclaimed Offender.

2. Learned counsel for the petitioner has iterated that the petitioner had been earlier granted the concession of regular bail by learned Sessions

Judge, Ambala vide order dated 01.05.2018 and was regularly appearing before the trial Court. Learned counsel has further iterated that on 01.07.2023, the petitioner sought exemption from personal appearance due to death of one of his relative and, thus, couldn't appear before the learned trial Court on the said date. Consequently, bail of the petitioner had been cancelled and bonds stood forfeited to the State; and subsequently proclamation under Section 82 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') was issued vide order dated 18.09.2023 (Annexure P-3). Thereafter, vide impugned order dated 14.11.2023 (Annexure P-4), the petitioner has been declared as Proclaimed Offender. Learned counsel submits that issuance of warrant of arrest as well as proclamation pursuant thereto against the petitioner was harsh, disproportionate and contrary to the principles governing judicial discretion, particularly when absence of the petitioner was purely inadvertent, which was neither intentional nor deliberate. Learned counsel has further iterated that the petitioner unequivocally undertakes to enter appearance before the trial Court as also join the proceedings in accordance with law, the petitioner shall appear before the trial Court on each and every date of hearing and also cooperate therein, in accordance with law for expeditious culmination of the trial.

3. *Per contra*, learned State counsel has opposed the petition in hand by arguing that the allegations against the petitioner are serious in nature; that the petitioner has misused the concession of bail earlier extended to him by not appearing before the trial Court; and that no plausible explanation has been brought forth as to why the petitioner could not appear before the trial Court on the aforesaid date. It is contended that the petitioner's conduct reflects a willful and deliberate disregard of the judicial

process, and that such non-appearance cannot be lightly condoned. Learned State counsel has further submitted that the petitioner's default demonstrates an attempt to delay the proceedings and frustrate the due course of law. Accordingly, it is prayed that the petition be dismissed.

4. I have heard learned counsel for the rival parties and have perused the available record.

5. At this juncture, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429***, relevant whereof reads as under:

“10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bi-focal interests of justice-to the individual involved and society affected.

11. We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours, the function of bail is limited, 'community roots' of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.

12. A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of

bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution.”

5.1. Further, the Hon’ble Supreme Court in a judgment titled as ***Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118***, has held as under:

*“Where the granting of bail lies within the discretion of the **court**, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the **court**, the primary inquiry is whether a recognizance or bond would effect that end.”*

5.2. Furthermore, the Hon’ble Supreme Court in a judgment titled as ***Sanjay Chandra vs. CBI (2012) 1 SCC 40***, has held as under:

“21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it

would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.”

6. Having considered the submissions advanced on behalf of the petitioner, this Court also finds it necessary to observe that the power to cancel bail or to initiate coercive processes such as issuance of non-bailable warrants or proclamation under Section 82 Cr. P.C. is required to be exercised with circumspection and upon due satisfaction of the underlying statutory preconditions. The record reflects that the petitioner had remained compliant with the terms of bail for a considerable period of time and his absence on the relevant date was attributed to a personal exigency. In such circumstances, the proportionality of the measures adopted by the trial Court becomes a relevant factor, particularly when no material has been shown to demonstrate deliberate evasion or any attempt by the petitioner to impede the administration of justice.

7. It is equally well settled that the object of cancellation of bail is not punitive in nature but is confined to ensuring the presence of the accused and maintaining the purity of the trial process. Coercive measures such as proclamation and forfeiture of bonds are intended to operate as last resorts where ordinary processes of securing attendance fail. In the present case, keeping in view the petitioner's conduct prior to the single instance of non-appearance, the absence of any allegation of misuse of liberty during the period he remained on bail, and his unequivocal undertaking to cooperate with the trial henceforth, this Court is persuaded to assess whether the drastic recourse adopted was aligned with the principles of fairness and

judicial discretion as elucidated in the preceding judgments of the Hon'ble Supreme Court.

8. Keeping in view the entirety of the facts and circumstances of the case; especially the factum of prime object of cancellation of bail and forfeiture of bail bonds being securing the presence of the accused, the petitioner-accused having come forward himself to face trial, willingness shown by the petitioner-accused to appear before the trial Court on each and every date in accordance with law, the petitioner having submitted that he shall cooperate for an expeditious culmination of the trial & there being no tangible material brought forward to indicate likelihood of the petitioner to interfere with the prosecution evidence; this Court is of the considered opinion that the petition in hand deserves to be allowed.

9. In view of the convenient ratiocination, it is ordained thus:

(i) The present petition is allowed;

(ii) The impugned order dated 01.07.2023 (Annexure P-2) passed by the learned Additional Sessions Judge, Ambala in case bearing No.NDPS/29/2018 titled as "State v/s Vishal" arising out of FIR No.114 dated 03.04.2018 (Annexure P-1), under Section 21 of the NDPS Act, 1985, registered at Police Station Ambala City, District Ambala, whereby bail granted to the petitioner has been cancelled and his bail bonds are forfeited to the State, and the impugned order dated 14.11.2023 (Annexure P-4) whereby the petitioner has been declared as Proclaimed Offender as well as all consequential proceedings arising therefrom are set-aside subject to the petitioner appearing before the trial/concerned Court on or before **22.12.2025**, & shall furnish an undertaking that the petitioner shall continue to appear before the trial/concerned Court on each and every date of hearing.

It is clarified that the trial/concerned Court shall be at liberty to impose such other condition(s) upon the petitioner, as deemed appropriate by it in the facts and circumstances of the case;

(iii) Pending application(s), if any, stands disposed of.

(SUMEET GOEL)
JUDGE

December 12, 2025

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No