



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

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**CRM-M-17519-2025
Decided on : 01.04.2025**

Mukesh and another

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Armaan Gagneja, Advocate
for the petitioner(s).

Mr. Amandeep Singh, DAG, Punjab.

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 05.12.2024 (Annexure P-5), passed by Ld. Additional Sessions Judge, Sri Muktsar Sahib, whereby after canceling the bail of the petitioners, non-bailable warrants have been issued against them, on account of their non-appearance in a case i.e. NDPS/67/2023, titled as, “State of Punjab v. Mukesh Etc.”, (CNR No.PBSM010008312023), arising out of FIR No.76, dated 28.09.2022, registered u/s 21(b) of NDPS Act, 1985, P.S. Lakhewali, District Sri Muktsar Sahib (Annexure P-1).

2. Learned counsel for the petitioners contends that petitioners were falsely implicated in FIR No.76, dated 28.09.2022. However, after their arrest, they both were released on regular bail by the Ld. Additional Sessions Judge, Sri Muktsar Sahib, vide orders dated 03.11.2022 and

11.11.2022 (appended as Annexures P-2 & P-3, respectively).

Thereafter, petitioners were regularly appearing before the Ld. Trial Court and they used to file proper applications for seeking personal exemption, in case they were not able to attend the proceedings.

3. Learned counsel for the petitioners submits that due to some inadvertent error in noting down the date of hearing, they failed to appear before the Ld. Trial Court on 05.12.2024, and consequently, Ld. Trial Court while cancelling the bail orders, forfeited their bail bonds/surety bonds to the State and issued non-bailable warrants against them for 02.04.2025.

Learned counsel, thus, submits that absence of the petitioners was neither intentional nor deliberate, but due to the reasons, as mentioned above.

4. Learned Counsel further submits that now petitioners are ready to join the process of law, however, they be directed to be released on bail, on their surrendering before the Court and thus, be protected from arrest. In case, one opportunity is granted, petitioners also undertake that they would not absent themselves 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 petitioners by submitting that petitioners do not deserve any sympathy, because, they have misused the concession of bail granted by the Court. Learned State counsel by pointing out the irresponsible conduct of the petitioners, submits that there is every possibility that for the purpose of delaying the trial, they would again be absents during the proceedings.

7. In number of cases, wherein, accused stopped appearing in

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 is declared 'Proclaimed Person'/Proclaimed Offender', after examining the facts, this Court has formulated to apply 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 petitioners have remiss in appearing before the Court only on one date, and consequently, on 05.12.2024, when impugned order cancelling the bail and issuance of non-bailable warrants of arrest, has been passed against them. It also cannot be left unnoticed that within a period of one week of the absence from the Court, and on coming to know about passing of the impugned order, petitioners have moved the present petition, showing their inclination to submit themselves before the trial Court.

9. In totality of circumstances, I am of the view that the petitioners 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 petitioners is accepted. Impugned order dated 05.12.2024 (P-5) is hereby **set aside** to the extent of issuance of non-bailable warrants against the petitioners, and they are directed to be released on bail, in the eventuality of surrender by them before the trial Court on or before 25.04.2025.

The petitioners 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, petitioners would also submit specific undertaking/affidavit that they will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of their

conduct.

However, this order shall be subject to the payment of Rs.20,000/- as costs (Rs.10,000/- each), to be deposited by the petitioners in an Old Age Home of the area, as may be decided by the learned Trial Court. The Trial Court shall also specify the time frame within which such costs will be required to be deposited, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

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

(SANJAY VASHISTH)
JUDGE

April 01, 2025

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*