



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-17621-2025
Decided on : 01.04.2025

Boota Singh @ Butta Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Manpinder Kaur, 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 22.08.2024 (Annexure P-3), passed by Ld. Additional Chief Judicial Magistrate, Sri Muktsar Sahib, whereby after cancelling the bail of the petitioner, non-bailable warrants have been issued against them, on account of their non-appearance in a case No.CHA/180-2022, titled as, “State of Punjab v. Butta Singh”, arising out of FIR No.234, dated 28.11.2021, under Sections 61/1/14 of PUnjab Excise Act, registered at Police Station Sadar, Sri Muktsar Sahib, District Sri Muktsar Sahib (Annexure P-1).

2. Learned counsel for the petitioners contends that petitioner has been falsely implicated in case i.e. FIR No.234, dated 28.11.2021. As per the impugned FIR, petitioner was apprehended by the police officials on the basis of suspicion and during search, 20 litres country made liquor was

recovered from his possession. After arrest in this case, petitioner applied for regular bail, and consequently, vide order dated 07.12.2021 (P-2), passed by Ld. ACJM, Sri Muktsar Sahib, petitioner was granted concession of regular bail.

3. Learned counsel submits that after concession of regular bail, petitioner was regularly appearing before the Ld. Trial Court. However, on 16.05.2024, petitioner did not attend the hearing before the Ld. Trial Court, as his son namely; Jagdeep Singh, was suffering from chronic disease and thereafter, expired on 16.06.2024. Consequently, Ld. Trial Court, marked the absence of the petitioner on 16.05.2024. Thereafter, the case was fixed for 01.07.2024, however, due to sudden demise of the petitioner's son, he again failed to joint the proceedings before the Ld. Trial Court. Consequently, on 22.08.2024 (P-3), non-bailable warrants were issued against the petitioner, as the petitioner was in trauma of his young son's death, thus, he remained mentally upset and was not aware of his daily routine works.

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

4. Learned Counsel further submits that now 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, 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 petitioner has remiss in appearing before the Court due to some unavoidable circumstances, and consequently, on 22.08.2024, impugned order cancelling the bail and issuance of non-bailable warrants of arrest, has been passed against him. It also cannot be left unnoticed that on coming to know about passing of the impugned order, 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 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 petitioner is accepted. Impugned order dated 22.08.2024 (P-3) is hereby **set aside** to the extent of issuance of non-bailable 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 25.04.2025.

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.

However, this order shall be subject to the payment of Rs.10,000/- as costs, to be deposited by the petitioner 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*