



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

126

**CRM-M-18443-2025
Decided on : 04.04.2025**

Varinder Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Birinder Pal, 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 24.01.2024 (Annexure P-3), passed by Ld. Additional Chief Judicial Magistrate, SBS Nagar, in proceedings conducted in FIR No.43, dated 29.04.2022, under Sections 323, 325, 148 & 149 of IPC, registered at Police Station Rahon, District SBS Nagar, Punjab (Annexure P-1), whereby, after cancelling the bail of the petitioner, non-bailable warrants have been issued against him.

2. Learned counsel for the petitioner contends that after registration of aforementioned FIR, petitioner moved application for grant of concession of regular bail, and same was allowed by the Court of Ld. ACJM, SBS Nagar, vide order dated 01.12.2022 (Annexure P-2), thereafter, he was regularly attending the Court proceedings. However, on 24.01.2024 (P-3),

petitioner failed to appear before the Trial Court, due to some unavoidable circumstances. Consequently, Ld. Trial Court cancelled the bail of the petitioner and issued nonailable warrants against him.

3. Learned counsel for the petitioner submits that Ld. Trial Court while cancelling the bail of the petitioner, failed to appreciate the fact that petitioner never absented from the Court proceedings except on 24.01.2024, as since 01.12.2022 i.e. the date when petitioner was granted concession of bail by Ld. Trial Court, he was regularly appearing before the Ld. Trial Court. In support of his contention, learned counsel refers to zimni orders dated 17.12.2022 to 15.12.2023, appended as Annexure P-4 along with present petition.

Besides, learned counsel submits that the petitioner, being a taxi driver, is frequently required to travel to various parts of the country, which necessitated his absence on the specified date. Being the sole breadwinner of the family also compelled him to continue working. Due to these circumstances, he was unable to inform his counsel in a timely manner, which ultimately resulted in the passing of the impugned order dated 24.01.2024 (P-3). Learned counsel further refers to the letter dated 15.03.2025, issued by the petitioner's employer in this regard, which is annexed as Annexure P-5 with the present petition.

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 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 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 24.01.2024, 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 as and when the petitioner came to know about the passing of impugned order, he has immediately 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

petitioners is accepted. Impugned order dated 24.01.2024 (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 their conduct.

However, this order shall be subject to the payment of Rs.5,000/- 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 04, 2025

J.Ram

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