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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22334-2025

Date of Decision: 29.04.2025

GAURAV ALIAS GOURAV ALIAS ROHIT

....Petitioner(s)

VERSUS

STATE OF PUNJAB

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Lupil Gupta, Advocate for the petitioner.

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 16.04.2025 (Annexure P-4), passed by Ld. Trial Court in case bearing NDPS-114-2023 titled as ‘State vs. Gaurav alias Rohit and others’, whereby after cancelling the bail of the petitioner, non-bailable warrants have been issued against him, on account of his non-appearance in the following FIR:-

FIR No.	Date	Section(s)	Police Station	District
83	09.07.2022	21-B, 29, 61, 85 of NDPS Act	Sadar Kotkapura	Faridkot

2. Learned counsel for the petitioner contends that in the present case, vide order dated 24.08.2022, petitioner had been granted regular bail by the trial Court (Judge Special Court, Faridkot), but on account of being involved in another case, FIR No.290 dated 13.08.2023 under Sections 363, 366-A, registered at Police Station City Faridkot, petitioner could not

appear in the proceedings which were already going on, under FIR No.83 dated 09.07.2022 and, therefore, his regular bail was cancelled.

Subsequently, after being acquitted in the proceedings of FIR No.290 dated 13.08.2024 (supra) he moved an anticipatory bail application in the proceedings of FIR No.83 dated 09.07.2022, but the same was dismissed by the trial Court vide order dated 24.02.2025 (Annexure P-5).

3. On account of the fact that non-bailable warrants have been issued by the trial Court, now vide impugned order dated 16.04.2025, petitioner wishes to join the proceedings and also undertakes to not to be absent throughout the proceedings except of seeking prior permission.

Thus, submits that absence of the petitioner was neither intentional nor deliberate, but he defaulted due to the reasons, mentioned here-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, this Court has been experiencing the

situation wherein, accused stopped appearing before trial Court in the 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 has been declared 'Proclaimed Person'/Proclaimed Offender'. After examining the facts from several cases, this Court has formulated and applied 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 only on one date, and consequently, on 12.07.2024, when 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 within seven months of the absence from the Court, and on coming to know about passing of the impugned order, the 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 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 petitioner is accepted. Impugned order (supra) is **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 19.05.2025.

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.20,000/- 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.**

April 29, 2025

Sangeeta

(SANJAY VASHISTH)
JUDGE

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