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

CRM-M-22424-2025**Date of Decision: 29.04.2025****ASHOK KUMAR AND ANOTHER****....Petitioner(s)****VERSUS****STATE OF PUNJAB AND OTHERS****....Respondent(s)****CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. Mahir Soos, Advocate with
Mr. Anirudh Bhaskar, Advocate and
Mr. Gaurav Chhonkar, Advocate for the petitioners.

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 setting aside of the impugned order dated 10.02.2025 (Annexure P-6), passed by Ld. Judicial Magistrate First Class, SAS Nagar, Mohali, whereby, learned Court below has proceeded to issue non-bailable warrants against the petitioners in case arising out of NACT No.774/2024 titled as 'M/s Hella Infra Market Retail Private Limited vs. A.K. Supplier & ors.' under Section 138 read with Section 142 of Negotiable Instruments Act 1881.

2. Learned counsel for the petitioners contends that the complaint under Section 138 of the Negotiable Instruments Act, has been filed by the petitioners in which they were summoned vide order dated 23.08.2024 (Annexure P-4).

On non-appearance of the petitioners bailable warrants were issued on 12.11.2024 (Annexure P-5). Again, because of non-appearance



of the petitioners, impugned order dated 10.02.2025 (Annexure P-6) for issuance of non-bailable warrants was passed.

Counsel submits that in fact, Court overlooked the fact that on serving the notices there was no service report as to whether the accused in the complaint has been served or not and thereon, the mistake got perpetuated as at the first instance, bailable warrants and thereon non-bailable warrants were issued.

Thus, submits that absence of the petitioners were neither intentional nor deliberate, but he defaulted due to the reasons, mentioned here-above.

4. Learned Counsel further submits that now petitioners are 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, petitioners also undertakes that they 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 petitioners by submitting that petitioners does not deserve any sympathy, because, they have has 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 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 petitioners have 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 them. 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 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 (supra) is **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 19.05.2025.

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.

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