



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-25686-2025
Decided on : 12.05.2025

Atul Kumar @ Atul Sharma alias Kudda

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Ms. Divya Gulati, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, Sr. 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 05.11.2024 (Annexure P-3), passed by Ld. Judicial Magistrate Ist Class, Amritsar, whereby after cancelling the bail of the petitioner, non-bailable warrants have been issued against him, on account of his non-appearance in a case FIR No. 244, dated 08.11.2021, under Sections 307, 148, 149, 427 of IPC and Section 25/27 of the Arms Act, 1959, registered at Police Station Division 'A' Amritsar, Distt. Amritsar (later on Section 307 of IPC deleted and Section 160/336 of IPC are added vide GD No.13, dated 08.05.2023).

2. Learned counsel for the petitioner argues that petitioner was granted anticipatory bail by the Coordinate Bench of this Court vide order dated 24.01.2023, in CRM-M-54257-2022, titled as, "Atul Kumar @ Atul Sharma @ Kuda v. State of Punjab" (Annexure P-2), and thereupon, he had

been appearing on each and every date of hearing before the trial Court. It was only once, i.e., 05.11.2024, petitioner had to left the town because of some compelling circumstances, and therefore, he instructed his counsel to make a request before the trial Court by moving an appropriate application for seeking personal exemption.

However, no such application was moved before the trial Court, which resulted into cancellation of bail and issuance of non-bailable warrants of arrest against the petitioner.

3. Learned counsel further submits that on coming to know the factum of issuing of non-bailable warrants of arrest and cancellation of bail, petitioner filed an anticipatory bail petition before the learned Trial Court, however, same has been dismissed vide order dated 18.04.2025 (P-4). Besides, learned counsel also refers to certain zimni orders, i.e., w.e.f. 21.12.2023 till 05.11.2024 (P-5), to show that petitioner was regularly appearing before the trial Court, on each and every date of hearing.

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 05.11.2024, 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 05.11.2024 (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 29.05.2025.

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.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

May 12, 2025

J.Ram

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