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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26235-2025
Decided on : 15.05.2025

Shyam Singh
State of Haryana

.....Petitioner
.....Respondent

Versus

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.
(appeared on advance notice)

SANJAY VASHISTH, J.

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 09.04.2025(Annexure P-1), 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
229	26.05.2020	18, 27(a) of NDPS Act and Setion 51(b) of Disaster Management Act and Section 188 of IPC	City Tohana	Fatehabad

2. Learned counsel for the petitioner submits that as per the order dated 27.02.2025 passed by the learned Special Judge, Fast Track Court under the NDPS Act, Fatehabad, the petitioner had been regularly



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appearing before the Court along with his counsel, Mr. J.M. Dhariwal, Advocate, and the matter was adjourned for 09.04.2025. It is contended that the petitioner's non-appearance before the learned Trial Court on 09.04.2025 was neither intentional nor deliberate, but was solely due to his ill health. On the said date, the petitioner had duly filed an application seeking exemption from personal appearance, supported by a medical certificate issued by the Government Hospital, Dugh, District Jhalawar, certifying that the petitioner was suffering from fever and was medically unfit to travel.

It is further submitted that the petitioner is a permanent resident of Jhalawar, Rajasthan, which is situated approximately 732 kilometers away from the learned Trial Court at Fatehabad. Despite the genuine medical reason and the supporting documentation, the learned trial Court rejected the exemption application and cancelled the bail earlier granted to the petitioner by this Court vide order dated 01.07.2021 and non-bailable warrants were issued against him.

Learned counsel, therefore, prays that one opportunity may kindly be granted to the petitioner to appear before the learned trial Court by protecting him from arrest. The petitioner undertakes that he shall not remain absent on any future date without prior permission of the Court and shall fully cooperate for the early conclusion of the trial

3. Notice of motion.

4. Learned State counsel puts an appearance, and opposes the request of the petitioner by submitting that petitioner does not deserve



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any sympathy, because, he has misused the concession of bail granted by the Court. Learned State counsel further submits that looking at his conduct, there is no surety that in future, petitioner would not be absent for the purpose of delaying the trial.

5. 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



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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)***.

6. 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 i.e. on 09.04.2025, when impugned order cancelling the bail and issuance of non-bailable warrants has been passed against him. It also cannot be left unnoticed that within one month 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.



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7. In the 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 05.06.2025.

8. 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.

9. However, this order shall be subject to the payment of Rs.10,000/- (Rupees ten thousand only) 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

15.05.2025
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Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**