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

CRM-M-26356-2025

Date of decision: 14.05.2025

Deepak Kumar

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Divyam Singh Dhakla, Advocate and
Mr. Vikram Singh, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

Ms. Tanmay Kadian, Advocate
for respondent No.2.**HARPREET SINGH BRAR, J. (ORAL)**

1. The prayer in the present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 is for quashing the impugned order dated 01.02.2023 (Annexure P-2) passed by the learned trial Court, whereby, the bail order has been cancelled and bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State followed by issuance of warrant of arrest in case bearing FIR No.0938 dated 19.08.2018 (Annexure P-1) under Sections 511/506/323/309 of IPC registered at Police Station Karnal Sadar, District Karnal.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on bail and was regularly appearing before the learned trial Court but on 01.02.2023, the petitioner could not appear before the learned trial Court as he was suffering from serious medical ailment and on 01.02.2023 (Annexure P-2), due to his non-appearance, his bail bonds/surety bonds were cancelled and forfeited to the State and warrant of arrest along with notice to



his surety were issued.

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of the petitioner.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

5. Notice of motion.

6. Ms. Geeta Sharma, DAG, Haryana who is present in Court, accepts notice for respondent No.1-State and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

7. I have heard learned counsel for the parties and perused the record of the case with their able assistance and with the consent of parties, the matter is taken up for final disposal.

8. A perusal of the order dated 01.02.2023 (Annexure P-2) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioner. Many a times, the accused can be prevented by sufficient reasons to put an appearance before the Court on a given date and, therefore, it necessarily cannot be construed as a deliberate and wilful absence. The explanation offered for non appearance before the trial Court is justified and, therefore, the same is accepted.

9. While the scheme of criminal justice system necessitates

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curtailment of personal liberty to some extent, it is of the utmost importance that the same is done in line with the procedure established by law to maintain a healthy balance between personal liberty of the individual-accused and interests of the society in promoting law and order. Such procedure must be compatible with Article 21 of the Constitution of India i.e. it must be fair, just and not suffer from the vice of arbitrariness or unreasonableness.

10. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 01.02.2023 (Annexure P-2), vide which the bail bonds and bail order of the petitioner was cancelled and warrants of arrest were issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of two weeks from today and on his doing so, he shall be admitted to bail on the same bail bonds and surety bonds already furnished by him to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

13. The receipt of payment of costs imposed must be presented before the learned trial Court. The learned Court below is directed to grant bail to the petitioner only upon verification of the payment of said costs.

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14. However, in case, the petitioner fails to surrender before the learned trial Court within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

14.05.2025*Neha*

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