



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

CRM-M-33436-2025 (O&M)

Date of Decision: 01.07.2025

ABINU D AND ANOTHER

...Petitioners

V/S

STATE OF HARYANA

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Mayank Aggarwal, Advocate for
Mr. Dinesh Maurya, Advocate for the petitioners.

Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. This petition has been filed under Section 528 Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 seeking quashing of impugned order dated 03.05.2024 (Annexure P-4) passed by learned Sub Divisional Judicial Magistrate, Hansi whereby bail order of the petitioners was cancelled and their bail bonds were forfeited and non-bailable warrants were issued against them in case bearing FIR No. 0016 dated 18.10.2023 registered under Sections 406, 419, 420 of Indian Penal Code at Police Station Cyber Crime Hansi along with all consequential proceedings arising therefrom.

2. Learned counsel for the petitioner submits that petitioners had been granted the relief of regular bail by this Court vide order 07.12.2023 (Annexure P-2) passed in CRM-M-60544-2023. Thereafter, petitioners were not aware about filing of Charge sheet before the learned trial Court as no summon was issued or served upon any of the petitioners. Therefore, on 03.05.2024, the petitioners could not put in appearance before the learned trial Court.

3. Learned counsel for the petitioners *inter alia* contends that non-appearance of the petitioners was not deliberate or intentional and thus,



aggrieved by the said order, they have 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 petitioners.

4. It is also submitted that the petitioners undertake to appear before the Court below on each and every date.

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

6. 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 willful absence. The explanation offered for non-appearance before the Court is justified and, therefore, the same is accepted.

7. While the scheme of criminal justice system necessitates 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.

8. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the Court below. The petitioners in the present case have themselves come forward and have undertaken to appear before the Court below on each and every date.

**CRM-M-33436-2025 (O&M)****-3-**

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 03.05.2024 (Annexure P-4), vide which bail order of the petitioners was cancelled and non-bailable warrants were issued against them, is hereby set aside.

10. Petitioners are directed to appear before the Court below within a period of four weeks from today and on their doing so, they shall be admitted to bail on the bail bonds and surety bonds already furnished by them at the time of grant of regular bail, along with costs of Rs. 10,000/- (Rs. 5,000/- each to be paid by both the petitioners) to be deposited with Poor Patients Welfare Funds, PGIMER, Chandigarh for wasting precious time of the Court.

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

12. It is made clear that in case, if the petitioners fail to appear before the Court below within the stipulated period and to deposit the aforesaid cost, the interim protection granted by this Court shall be deemed vacated without any further reference to this Court.

01.07.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>