



123 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-36379-2025 (O&M)
Date of Decision: 14.07.2025

RAJ KUMAR MEHTA

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Tejas Bansal, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG 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 30.09.2024 (Annexure P-4) passed by learned Additional Sessions Judge, Sirsa, whereby bail order of the petitioner has been cancelled, his bail/surety bonds were forfeited to the State and non-bailable warrants were issued against him in appeal bearing No. CRA-81/2024 titled as ***"M/s. Mehta Tractor and Jeep Parts etc. Vs. Rakesh Kumar"*** (arising out of judgment of conviction and order of sentence dated 31.01.2024/01.02.2024 in complaint No. NACT/179/2018).

2. Learned counsel for the petitioner submits that in the complaint(supra) learned trial Court had convicted the petitioner under Section 138 of Negotiable Instruments Act, 1881 and sentenced him to undergo simple imprisonment for 02 years and further directed him to pay Rs. 10,00,000/- as compensation to the complainant-respondent No. 2. Aggrieved by the aforesaid judgment of conviction and order of sentence, petitioner approached the learned lower Appellate Court by filing appeal bearing No. CRA-81/2024 and learned Additional Sessions Judge, Sirsa,



admitted the said appeal and suspended the sentence of the petitioner subject to the condition that the petitioner shall deposit 20% of the compensation amount awarded by learned trial Court within 60 days. During the pendency of said appeal, petitioner was regularly appearing before the learned lower Appellate Court on each and every date. However, he could not appear before the learned lower Appellate Court on 30.09.2024 and filed an application seeking exemption from personal appearance on the ground that he had to go out of station for an urgent work, thus he would not be able to attend the Court proceedings on that day. However, learned Court below declined the application of the petitioner and cancelled his bail order and issued non-bailable warrants against him vide the impugned order dated 30.09.2024 (Annexure P-4).

3. Learned counsel for the petitioner *inter alia* contends that non-appearance of the petitioner was not deliberate or 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 Court below on each and every date.

5. 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.

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



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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 petitioner in the present case has himself come forward and has undertaken to appear before the Court below on each and every date.

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 30.09.2024 (Annexure P-4), vide which bail order of the petitioner has been cancelled and non-bailable warrants have been issued against him, is hereby set aside.

10. Petitioner is directed to appear before the Court below within a period of four weeks from today and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds, already furnished by him before the learned Additional Sessions Judge, Sirsa, along with costs of Rs. 10,000/- to be deposited with Poor Patients Welfare Funds, PGIMER, Chandigarh for wasting precious time of the Court.

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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 petitioner only upon verification of payment of said cost.

12. It is made clear that in case, petitioner fails 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 to be automatically vacated, without any further reference by this Court.

(HARPREET SINGH BRAR)
JUDGE

14.07.2025

Ajay Goswami

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No