



127 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-36407-2025 (O&M)
Date of Decision: 14.07.2025

AMIT KUMAR

...Petitioner

V/S

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Amit Choudhary, 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 07.11.2023 (Annexure P-4) passed by learned Additional Chief Judicial Magistrate, Fatehabad, 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 case bearing No. CHI-496/2020 titled as ***"State Vs. Prem etc."*** in FIR No. 93 dated 12.06.2020 registered under Sections 147, 148, 294 and 427 of Indian Penal Code (for short 'IPC') at Police Station Bhattu Kalan, District Fatehabad.

2. Learned counsel for the petitioner submits that petitioner was granted regular bail by learned trial Court vide order dated 05.08.2020 (Annexure P-2) and he was appearing before the Court concerned on each and every date of hearing till 12.10.2023. But thereafter he could not put in appearance before the learned trial Court and moved an application for exemption from personal appearance on the ground that he had gone to England with his wife for study purpose. But the said application was rejected and learned trial Court vide impugned order dated 07.11.2023 (Annexure P-4) cancelled the bail order of the petitioner and issued non-bailable warrants against him.



3. Learned counsel for the petitioner *inter alia* contends that non-appearance of the petitioner was neither deliberate nor 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 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.

**CRM-M-36407-2025 (O&M)****-3-**

9. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 07.11.2023 (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 to the satisfaction of the Court below, along with costs of Rs. 10,000/- 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 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