



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

133

CRM-M-43013-2025

Date of Decision : 07.08.2025

BHAWNA THAKUR**...Petitioner****VERSUS****STATE OF HARYANA****...Respondent****CORAM: HON'BLE MS. JUSTICE AARADHNA SAWHNEY**

Present: Mr. Punit Malik, Advocate
for the petitioners.

AARADHNA SAWHNEY, J. (ORAL)

1. The present petition has been filed under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in case bearing FIR No.257 dated 25.06.2019 for the commission of offences under Sections 384, 389 IPC, registered at Police Station Sushant Lok, Gurugram.

2. Learned counsel for the petitioners has submitted that a false case under Sections 384, 389 IPC was registered against the petitioner, in which she is likely to be acquitted. Continuing further, learned counsel pointed out that after the petitioner was granted bail by the learned trial Court on 23.07.2019. She had been regularly appearing before the Court and attending all the hearings. However, on the advice of her previous counsel, the petitioner did not appear on 03 consecutive dates i.e. 10.05.2022, 08.12.2022, 01.06.2023 on account of COVID-19 pandemic. On the said day, Court notices issued to the petitioner were not received back either served or unserved. Thereafter, the Presiding Officers remained on leave, as is clear from the copy of Zimni orders placed on record. On 19.10.2024, however, on



account of non-appearance of petitioner, her bail was cancelled and bail bonds/surety bonds were forfeited to the State by the learned trial Court. Presence of the petitioner was sought to be secured through non-bailable warrants for 31.05.2025. Her application for grant of pre-arrest bail was dismissed by the learned Additional Sessions Judge, vide order dated 22.07.2025.

3. In the light of the facts mentioned above, learned counsel for the petitioner submitted that initial absence of the accused was on account of a misunderstanding operating in her mind that due to COVID-19 she is not required to appear before the trial Court. Subsequently, she did not receive Court notices but in terms of order dated 19.10.2024, the learned trial Court presuming that the Court notice has been received back served, proceeded to cancel the bail of the petitioner. Taking his submissions further, learned counsel contended that, petitioner never intended to evade the Court proceedings. Her absence was not intentional. She further assures to appear before the Court concerned on each and every date of hearing.

4. I have heard learned counsel for the petitioner and have perused the available record.

5. At this juncture, it would be apposite to refer herein to a judgment of the Hon'ble Supreme Court titled as ***Gudikanti Narasimhulu and others vs. Public Prosecutor, High Court of Andhra Pradesh AIR 1978 SUPREME COURT 429***, relevant whereof reads as under:

"10. The significance and sweep of Article 21 make the deprivation of liberty a matter of grave concern and permissible only when the law authorising it is reasonable, even-handed and geared to the goals of community good and State necessity spelt out in Article 19. Indeed, the considerations I have set out as criteria are germane to the constitutional proposition I have deduced. Reasonableness



postulates intelligent care and predicates that deprivation of freedom- by refusal of bail is not for punitive purpose but for the bifocal interests of justice-to the individual involved and society affected.

11. We must weigh the contrary factors to answer the test of reasonableness, subject to the need for securing the presence, of the bail applicant. It makes sense to assume that a man on bail has a better chance to prepare or present his case than one remanded in custody. And if public justice is to be promoted, mechanical detention should be close to ours. the function of bail is limited, 'community roots of the, applicant are stressed and, after the Vera Foundation's Manhattan Bail Project, monetary suretyship is losing ground. The considerable public expense in keeping in custody where no danger of disappearance or disturbance can arise, is not a negligible consideration. Equally important is the deplorable condition, verging on. the inhuman, of our sub-jails, that the unrewarding cruelty and expensive custody of avoidable incarceration makes refusal of bail unreasonable and a Policy favouring release justly sensible.

12. A few other weighty factors deserve reference. All deprivation of liberty is validated by social defence and individual correction along an anti-criminal direction. Public justice is central to the whole scheme of bail law. Fleeing justice must be forbidden but punitive harshness should be minimised. Restorative devices to redeem the man, even, through community service, meditative drill, study classes or other resources should be innovated, and playing foul with public peace by tampering with evidence, intimidating witnesses or committing offence while on judicially sanctioned 'free enterprise,' should be provided against. No seeker of justice shall play confidence tricks on the court or community. Thus, conditions may be hung around bail orders, not to cripple but to protect Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution."



6. Further, the Hon'ble Supreme Court in a judgment titled as ***Gurcharan Singh vs. State (UT of Delhi) 1978 (1) SCC 118***, has held as under:-

*"Where the granting of bail lies within the discretion of the **court**, the granting or denial is regulated, to a large extent, by the facts and circumstances of each particular case. Since the object of the detention or imprisonment of the accused is to secure his appearance and submission to the jurisdiction and the judgment of the **court**, the primary inquiry is whether a recognizance or bond would effect that end."*

7. Furthermore, the Hon'ble Supreme Court in a judgment titled as ***Sanjay Chandra vs. CBI (2012) 1 SCC 40***, has held as under:

"21. In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty."

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, "necessity" is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances."



8. Keeping in view the entirety of the facts and circumstances of the case; especially the fact that the prime object of cancellation of bail and forfeiture of bail bonds being securing the presence of the accused, the petitioner-accused having come forward herself to face trial, willingness shown on her part to appear before the trial Court on each and every date, taking lenient view of the matter, the present petition is disposed of with a direction to the petitioner to appear before the learned trial Court on 02.12.2025 i.e. the next date of hearing fixed in the said Court. On her appearance, her application for grant of bail shall be sympathetically dealt with in the light of the observations made hereinabove. This concession has been granted to the petitioner on the condition that she shall continue to appear regularly before the trial Court on each and every date of hearing. Further learned trial Court would be at liberty to impose such conditions upon the petitioner, as deem necessary, in the facts and circumstances of the case.
9. The petition stands disposed of in the aforesaid terms and condition.
10. Pending application(s), if any, stands disposed of.

(AARADHNA SAWHNEY)
JUDGE

07.08.2025
Nisha Yadav

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No