



S. No.146

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

**CRM-M-50056 of 2025
Date of Decision:08.09.2025**

Dhawan Tyagi and others

.....Petitioners

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Inderjit Sharma, Advocate for the petitioners.

Yashvir Singh Rathor, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of the order dated 30.07.2025 (Annexure P-1) passed by Additional Sessions Judge, Sonipat whereby bail of the petitioners has been cancelled and bail bonds have been forfeited and arrest warrants have been issued in case arising out of FIR No.0100 dated 28.04.2024 under Sections 15 and 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station HSIDC Harhi, District Sonipat on account of their absence on a single date.

2. Upon notice of motion, Mr. Ramesh Kumar Ambavta, DAG, Haryana, accepts notice on behalf of the State. Both the parties have been heard and material placed on the file has been perused.

3. Learned counsel for the petitioners contends that the petitioners had been released on bail and had been regularly appearing before the Court. They had



also appeared before the Court of Additional Sessions Judge on 30.07.2025 but due to some misunderstanding, their presence was not marked and their bail was cancelled alongwith that of co accused – Shauki (non-petitioner). They had moved an application on the same day for withdrawal of the non-bailable warrants but by the time, the application was decided, they had left the Court fearing arrest. Learned counsel next contended that the case was fixed for awaiting the report of FSL and no substantive proceedings were to be conducted on that date. Their absence was not intentional and they never intended to abscond or delay the trial. Learned counsel further contended that object of bail is not punitive but to ensure the presence of accused during the trial and their past conduct also establishes that they had no intention to break the process of law and they undertake to abide by all the terms and conditions that may be imposed by the Court. It has been prayed that impugned order be set aside.

4. Learned State Counsel has opposed the prayer and argued that the petitioners absented and have hampered the trial and the impugned order is not liable to be quashed.

5. A Co-ordinate Bench of this Court, in the judgment reported as Law Finder Doc.id# 2765158, 2025:NCPHHC:106708 titled as “**Sahib Singh @ Saab Singh Vs. State of Punjab**” has held that issuance of non-bailable warrants should not be exercised in a mechanical manner and must be adopted sparingly, only upon recording cogent reasons reflecting the necessity of such a stringent course. It has been further held that cancellation of bail amounts to unjustifiable restriction on procedural rights of petitioner in the absence of any misconduct or



deliberate attempt to evade proceedings and petitioner-accused was directed to appear before the trial Court and to furnish an undertaking to appear on each and every date of hearing and was ordered to be released on bail. It was further held that object of bail is to secure appearance of accused at trial and deprivation of liberty must only be necessitated by extraordinary circumstances and courts should avoid punitive approach and adhere to procedural safeguards enshrined under the law. In holding so, reliance was placed upon 1978(1) SCC 118 titled as **‘Gurcharan Singh Vs. State (UT of Delhi)’** and (2012) 1 SCC 40 titled as **‘Sanjay Chander Vs. CBI’**.

6. Perusal of the impugned order Annexure P.1 dated 30.07.2025 shows that the case was called several times but the petitioners as well as non-petitioner Shauki did not appear and their bail was cancelled and bonds were forfeited and they were ordered to be summoned through arrest warrants for 16.09.2025. It has been further observed in the order that file has again been taken up on an application for cancellation of non-bailable warrants but the same was signed by only two of the petitioners, who had also left the Court premises by the time application was taken up and the same was rejected. The application moved by the petitioners has been annexed as Annexure P.2. A perusal of the record shows that the case was fixed for awaiting of the report of FSL which had not been received and no substantive proceedings were to be conducted on that day and the accused were not going to gain anything by absenting or by delaying the trial. As such, it cannot be inferred that the accused had wilfully absented to hamper the trial. Rather, instead of canceling the bail on account of their non-appearance, the Court could have issued notice or bailable warrants to secure their presence



instead of passing the punitive order of cancellation of bail. Moreover, bail could have been cancelled and arrest warrants could have been issued only after recording a satisfaction that accused had wilfully absented with cogent reasons reflecting the necessity of such a stringent course. As such, the absence of petitioners on the date fixed cannot be termed as willful or intentional so as to hamper the trial and thus, impugned order is liable to be set aside.

7. As a result of aforesaid discussion, the present petition is allowed and impugned order dated 30.07.2025 (Annexure P-1) is set aside and it is ordered that petitioners shall be released on bail to the satisfaction of the trial Court on their appearance before the trial Court within 15 days from today. In case, they fail to appear within 15 days, the benefit of bail granted to them by way of this order shall come to an end.

(Yashvir Singh Rathor)
Judge

September 08, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No