



122

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

CRM-M-63123-2024

Date of decision: 08.01.2025

Devender Kumar alias Kala

....Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Pankaj Midha, Addl.A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking quashing of the impugned order dated 11.10.2024 (Annexure P-1) passed by the learned Special Judge, Fast Track under NDPS Act, Fatehabad, whereby, the bail order has been cancelled and bail bonds/surety bonds of the petitioner have been cancelled and forfeited to the State followed by issuance of warrant of arrest for 22.01.2025 in case bearing FIR No.137 dated 16.03.2023 under Section 18 of NDPS Act, registered at Police Station Sadar Fatehabad, District Fatehabad.

2. Learned counsel appearing for the petitioner *inter alia* contends that the petitioner was on regular bail and was regularly appearing before the learned trial Court. On 14.08.2024, the petitioner did not appear before the learned trial Court and has moved an application for exemption which was allowed and the case was adjourned for 11.10.2024. On 11.10.2024, the petitioner could not appear before the learned trial Court as some police

CRM-M-63123-2024**-2-**

officials have tried to implicate him in a false case by lodging another FIR No.348 dated 27.07.2024 under Section 18-B of the NDPS Act. Thereafter, the petitioner has approached this Court for anticipatory bail and this Court has granted the concession of ad interim anticipatory bail to the petitioner. Therefore, on 11.10.2024 (Annexure P-1), due to his non-appearance, his bail bonds/surety bonds were cancelled and forfeited to the State and warrants of arrest along with notice to his surety were issued for 22.01.2025.

3. Learned counsel appearing for the petitioner submits that the non-appearance of the petitioner was not deliberate and 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 trial Court on each and every date.

5. Notice of motion.

6. Mr. Pankaj Midha, Addl.A.G., Haryana who is present in Court, accepts notice for the respondent and submits that the impugned order has been passed on the sole ground of the absence of the petitioner, however, it is not disputed by him that petitioner was already on bail and had been appearing before the trial Court.

7. 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.

8. A perusal of the order dated 11.10.2024 (Annexure P-1) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail

**CRM-M-63123-2024****-3-**

for the solitary absence of petitioner. 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 wilful absence. The explanation offered for non appearance before the trial Court is justified and, therefore, the same is accepted.

9. 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.

10. The sole purpose of issuance of non-bailable warrants is to secure presence of the accused before the trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before the trial Court on each and every date.

11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 11.10.2024 (Annexure P-1), vide which the bail bonds and bail order of the petitioner were cancelled and warrant of arrest was issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of two 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 trial Court, along with costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Fatehabad, for wasting precious time of the Court.

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

(HARPREET SINGH BRAR)
JUDGE

08.01.2025
Neha

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No