



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

125

**CRM-M-1492-2025
Decided on : 15.01.2025**

Bishan Dass

... Petitioner

Versus

State of Punjab and anr

... Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Abhay Gupta Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. By way of present petition filed under Section 528 of BNSS., petitioner is seeking setting aside of impugned order dated 02.04.2024 (Annexure P-4), passed by Ld. Additional Sessions Judge, Bathinda, whereby the bail order dated 05.03.2019 (P-2) of the petitioner has been suspended and non-bailable warrants have been issued against the petitioner in Criminal Appeal No. CRA-130/2019 filed against the judgment dated 06.02.2019 passed by learned Judicial Magistrate First Class, Bathinda (P-1) in complaint case bearing No. COMA/2288/2024 filed under Section 138 of the Negotiable Instruments Act, 1881.

2. Learned counsel for the petitioner contends that the petitioner was convicted by the Court of learned Judicial Magistrate First Class, Bathinda (Annexure P-1) in a complaint case bearing No.COMA/2288/2024 filed under Section 138 of the Negotiable Instruments Act, 1881 and thereupon was sentenced for a period of two years alongwith the compensation amount to the tune of Rs. 7,36,000/- alongwith interest @ 9% per annum from the date of issuances of cheque in question till the order of sentence i.e.

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06.02.2019.

The said judgment and order of sentence was assailed by the petitioner before the Appellate Court, which is now pending as Criminal Appeal No. 130/2019, titled as, 'Bishan Dass Vs. Urvinder Singh'. Since the time of registration of appeal in the year 2019, the petitioner is being represented through his counsel namely Mr. Surjit Singh Romana, Advocate, as there is no specific provision in law requiring presence of the convict in the first appeal lying before the Court requiring his personal presence.

3. Learned counsel for the petitioner further submits that the appeal was pending for the last more than five years and it was on 02.04.2024, that on account of non-appearance of the counsel representing the petitioner (appellant before Appellate Court), bail order of the petitioner was suspended and was ordered to be summoned throughailable warrants for 03.06.2024. Hence, the petitioner is before this Court, challenging the impugned order dated 02.04.2024 (P-4)

4. Learned counsel for the petitioner submits that if one opportunity is granted to the petitioner to appear before the Appellate Court, he would furnish requisite fresh bail bonds/surety bonds to the satisfaction of the said Court. He also points out that concession of bail was never misused by the petitioner in the appeal proceedings or even during trial proceedings for these many years i.e. since the time of filing of complaint except of the incident due to which the bail already granted to him has been suspended.

5. Mr. Amandeep Singh, DAG, Punjab, appears on advance notice on behalf of respondent/State and is unable to dispute the factual contentions addressed by learned counsel for the petitioner.

Moreover, this Court do not find any specific reason to invite any

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written submissions from the respondent/State for the purpose of disposal of the present petition.

6. Considering the circumstances in its entirety and noticing the fact that the appeal is pending before the Appellate Court since the year 2019, the Appellate Court instead of deciding the appeal expeditiously has kept it unnecessarily pending.

7. Therefore, in the totality of circumstances, I am of the opinion that an opportunity shall be granted to the petitioner to appear before the Appellate Court and it is directed that if petitioner on his own appears before the learned Appellate Court on or before 04.02.2025, he would be released on bail subject to his furnishing fresh bail bonds/surety bonds to the satisfaction of the Appellate Court. Besides, petitioner would submit specific undertaking/affidavit that he will keep appearing during the proceedings of the appeal in future and the proceedings would not be delayed because of his conduct.

8. In view of above, **the present petition is allowed.**

9. Needless to mention here that on compliance of all the conditions mentioned here-in-above, impugned order dated 02.04.2024 (Annexure P-4) and the subsequent orders would become inoperative *qua* the petitioner.

(SANJAY VASHISTH)
JUDGE

January 15, 2025***rashmi***

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*