

2026:PHHC:048291



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-16162-2026

Deepak Malhotra

....Petitioner

versus

State of Punjab

....Respondent

Date of Decision: March 27, 2026

Date of Uploading: March 27, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Manoj R. Sharma, Advocate for the petitioner.

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SUMEET GOEL, J. (Oral)

The present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking quashing of the order dated 27.01.2026 (Annexure P-3) passed by the learned Additional Sessions Judge, Gurdaspur (for short 'Sessions Judge') whereby bail granted to the petitioner has been cancelled and his bail/surety bonds are forfeited to the State, and non-bailable warrant have been issued against the petitioner as also notice to his sureties were issued in case FIR No.182 dated 05.10.2023, registered under Sections 307, 379-B(2), 323, 324, 325, 201, 34 of IPC (Sections 109, 303(2), 115(2), 118(1), 117(2), 238 and 3(5) of the BNS, 2023) and Section 25 of the Arms Act, 1959, at Police Station Dinanagar, District Gurdaspur, *qua* the petitioner; and quashing of the proclamation order dated 10.02.2026 (Annexure P-4) issued pursuant thereto as well as consequential proceedings arising therefrom.

2. Learned counsel for the petitioner has iterated that the petitioner had been earlier granted the concession of regular bail by learned Sessions Judge vide order dated 10.05.2024 and was regularly appearing before the trial Court. Learned counsel has further iterated that on 27.01.2026, the petitioner had mistakenly noted the next date of hearing as 27.02.2026 instead of 27.01.2026, and couldn't appear before the learned trial Court on the said date. Consequently, bail of the petitioner has been cancelled and bonds stands forfeited to the State vide impugned order and subsequently proclamation under Section 82 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') was issued vide order dated 10.02.2026 (Annexure P-4). Learned counsel submits that issuance of warrant of arrest as well as proclamation pursuant thereto against the petitioner was harsh, disproportionate and contrary to the principles governing judicial discretion, particularly when absence of the petitioner was purely inadvertent, which was neither intentional nor deliberate. Learned counsel has further iterated that the petitioner unequivocally undertakes to enter appearance before the trial Court as also join the proceedings in accordance with law, the petitioner shall appear before the trial Court on each and every date of hearing and also cooperate therein, in accordance with law for expeditious culmination of the trial.

3. Notice of motion.

4. On the strength of advance service of copy of petition, Mr. Adhiraj Singh Thind, AAG Punjab appears and accepts notice on behalf of the State of Punjab. He opposes the petition in hand by arguing that allegations against the petitioner are serious in nature, the petitioner has misused the concession of bail earlier extended to him by not appearing

before the trial Court & no plausible explanation has been brought forth as to why the petitioner did not appear before the trial Court on the aforesaid date.

5. I have heard learned counsel for the rival parties and have perused the available record.

6. 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 bi-focal 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.”*

6.1. 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.”*

6.2. 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 un-convicted 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.”*

7. Keeping in view the entirety of the facts and circumstances of the case; especially the factum of prime object of cancellation of bail and forfeiture of bail bonds being securing the presence of the accused, the petitioner-accused having come forward himself to face trial, willingness shown by the petitioner-accused to appear before the trial Court on each and every date in accordance with law, the petitioner having submitted that he shall cooperate for an expeditious culmination of the trial & there being no tangible material brought forward to indicate likelihood of the petitioner to interfere with the prosecution evidence; this Court is of the considered opinion that the petition in hand deserves to be allowed.

8. In view of the convenient ratiocination, it is ordained thus:

(i) The present petition is **allowed**;

(ii) The impugned order dated 27.01.2026 (Annexure P-3) and proclamation order dated 10.02.2026 (Annexure P-4) passed by the learned Sessions Judge issued pursuant thereto as well as all consequential proceedings arising therefrom are set-aside, *qua* the petitioner, subject to the petitioner appearing before the trial/concerned Court on or before **09.04.2026**, & shall furnish an undertaking that the petitioner shall continue to appear before the trial/concerned Court on each and every date of hearing. It is clarified that the trial/concerned Court shall be at liberty to impose such other condition(s) upon the petitioner, as deemed appropriate by it in the facts and circumstances of the case;

(iii) The petitioner shall deposit costs of ₹10,000/- with the Punjab & Haryana High Court Employees Welfare Association, Bank details whereof reads thus:

Account No.37167209613;  
IFSC Code: SBIN0050306;  
Branch Code: 50306 &  
Bank: State Bank of India, High Court Branch, Chandigarh

It is clarified that payment of the aforesaid costs and production of receipt/proof thereof before the trial/concerned Court shall be condition precedent. In absence of deposit of such costs, the present petition would be deemed to be dismissed without any further reference to the Bench.

(iv) Pending application(s), if any, stands disposed of.

(SUMEET GOEL)  
JUDGE

March 27, 2026

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No