



142 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-72637-2025

Date of Decision: 12.01.2026

GURJEET SINGH ALIAS JONY

..... Petitioner

Versus

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Dipanshu Kapur, Advocate
for the petitioner |(through V.C.).

YASHVIR SINGH RATHOR, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023 for setting aside of order dated 18.09.2024 (Annexure P-3) passed by Court of Ld. Judicial Magistrate First Class, Ambala whereby bail of the petitioner has been cancelled and bail bonds have been forfeited and non bailable warrants have been issued in case arising out of FIR No.220 dated 20.09.2023 under Section 61 of Excise Act registered at Police Station Panjokhera, District Ambala, on account of his absence.

2. Notice of motion. Mr. Gorav Kathuria, DAG, Punjab, accepts notice on behalf of the respondent-State.

3. I have heard the learned counsel for the petitioner as well as learned State counsel and have gone through the material on the file.

4. Learned counsel for the petitioner contends that petitioner was released on bail in the present case and petitioner was regularly appearing before the Trial Court. On 30.07.2024, the case was fixed for prosecution evidence. However, the petitioner could not appear before the



Trial Court. He duly informed his counsel but neither his counsel appeared nor any exemption application was filed on his behalf. Thereafter, Court notice for his appearance for 18.09.2024 was issued and when he did not appear on 18.09.2024, his bail was cancelled. However, the petitioner did not receive any court notice and his counsel also did not inform him about the next date of hearing. Therefore, neither his absence was intentional nor he ever 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 his past conduct also establishes that he had no intention to disobey the process of law and he undertakes 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.

5. On the other hand, learned State counsel has opposed the prayer and argued that petitioner absented and has hampered the trial and the impugned order is not liable to be quashed.

6. A Co-ordinate Bench of this Court, in the judgment reported as Law Finder Doc.id# 2765158, 2025:NCPHHC:106708 “***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 “*Gurcharan Singh Vs. State (UT of Delhi)*” and (2012) 1 SCC 40 “*Sanjay Chander Vs. CBI*”.

7. A perusal of the order dated 30.07.2024 shows that on that date, accused-petitioner had not appeared and the trial Magistrate had issued court notice to him to secure his presence for 18.09.2024. On 18.09.2024 also, accused-petitioner had not appeared and bail was cancelled on account of his non-appearance. However, the order is silent as to whether court notice was issued to the petitioner or not and whether the same had been served or not. Once the trial Court had decided to secure the presence of the petitioner by way of court notice vide order dated 30.07.2024, bail could not have been cancelled unless and until, he was duly served with the court notice and was informed of the next date of hearing. As such, it cannot be inferred that petitioner had wilfully absented himself to hamper the trial. Moreover, the bail could have been cancelled only after recording a satisfaction that petitioner had wilfully absented with cogent reasons reflecting the necessity of such a stringent course. On this account, the impugned order is liable to be set aside.



8. As a result of aforesaid discussion, the present petition is allowed and impugned order dated 18.09.2024 (Annexure P-3) is set aside and it is ordered that petitioner shall be released on bail to the satisfaction of the trial Court on his appearance before the trial Court within 15 days from today. In case, he fails to appear within 15 days the benefit of bail granted by way of this order shall come to an end.

(YASHVIR SINGH RATHOR)
JUDGE

12.01.2026
Priyanka Thakur

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No