IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

2025:PHHC:140364

124 **CRM-M-54835-2025 (O&M)**

Date of decision: 09.10.2025

Raj Kumar

....Petitioner

V/s

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Munish Behl, Advocate for the petitioner.

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SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS 2023, primarily seeking quashing of the order dated 28.03.2025 (Annexure P-6) passed by learned Sessions Judge, Ambala vide which the petitioner was ordered to be summoned through non-bailable warrants in case FIR No.226 dated 16.04.2023 registered for the offences punishable under Sections 473, 34, 307 of IPC and Section 25 of the Arms Act, 1959 and Section 61 of the Panjab Excise Act, 1914 (Haryana Amendment Bill, 2020) (Sections 186, 332, 379, 411, 353, 420 of IPC added lateron) at Police Station Ambala Cantt. District Ambala.

2. Learned counsel for the petitioner submits that the petitioner was earlier granted the concession of anticipatory bail by the competent Court. Learned counsel for the petitioner submits that after the completion of the investigation, the challan was presented before the Court on 18.10.2023, on which date the case was adjourned to 21.12.2023. He further submits that subsequent zimini orders passed by the concerned Court reflects that the

petitioner, being in custody in another case, was repeatedly produced before the Court of learned ACJM, Ambala, pursuant to production warrants issued on each of the aforesaid dates. Learned counsel for the petitioner has further argued that on 16.04.2024, the matter was adjourned to 30.04.2024. On the adjourned date, i.e., 30.04.2024, the petitioner, having secured bail in the other case, appeared before the learned ACJM, Ambala, and the matter was adjourned to 13.05.2024. However, the matter was taken up earlier on 06.05.2024 and was further adjourned to 02.09.2024, as the learned Judge was scheduled to attend training on three new criminal laws from 11.05.2024 to 13.05.2024. Thereafter, on 02.09.2024, the learned ACJM, Ambala observed that since the offence under Section 307 IPC is exclusively triable by the Court of Sessions, the challan was committed to the Court of the learned Sessions Judge, Ambala, for 16.09.2024. The petitioner has been facing trial before the said Court. On 28.03.2025, the petitioner was unable to appear before the trial Court due to ill health, and an application seeking exemption from personal appearance was filed by his counsel. However, the trial Court declined the said application, cancelled the petitioner's bail, and issued non-bailable warrants for his arrest. Learned counsel has iterated that the non-appearance of the petitioner before the trial Court was not willful and unintentional. Learned counsel has contended that the procedure adopted by the learned trial Court in directly issuing the non-bailable warrants against the petitioner at the very first instance is contrary to the settled principles of criminal jurisprudence. It is well established position of law, as reiterated by the Hon'ble Supreme Court, that the Courts are required to adhere to due process while ensuring the presence of the accused. It has been submitted by the learned counsel that in the instant case, the learned trial Court has failed to

issue any notice to the petitioner prior to resorting to the issuance of non-bailable warrants and hence such an approach is arbitrary, untenable and contrary to the procedural safeguard enshrined under the law. 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 an expeditious culmination of the trial.

3. Notice of motion.

4. Mr. Tarun Aggarwal, Addl.AG, Haryana accepts notice on behalf of the respondent-State. He has opposed the petition in hand by arguing that 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 tiled 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.*
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> *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. A perusal of the record reveals that the learned trial Court, while cancelling the concession of bail, straight away proceeded to issue non-bailable warrants against the petitioner. In the considered opinion of this Court, the cancellation of bail orders amounts to an unjustifiable restriction on the procedural rights of the petitioner in the absence of any misconduct, lack of bona fides, or a deliberate attempt to evade the proceedings on his behalf. The issuance of non-bailable warrants must not be exercised in a mechanical manner and the same must be adopted sparingly and only upon the recording of cogent reasons reflecting the necessity of adopting such a stringent course.

8. Keeping in view the entirety of the facts and circumstances of the case; especially the factum of the 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 the likelihood of the petitioner to interfere with the prosecution evidence; this Court is the considered opinion that the petition in hand deserves to be allowed.

9. It is, thus, directed as follows:

(i) The impugned order dated 28.03.2025 (Annexure P-6) passed by learned Sessions Judge, Ambala is set-aside subject to the petitioner appearing before the trial/concerned Court on or before 04.11.2025 & 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.

(ii) The petitioner shall deposit costs of ₹20,000/- with the Punjab & Haryana High Court Bar Clerks' Association, Bank details whereof reads thus:

Account No. 65004775776;
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.

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

(SUMEET GOEL)
JUDGE

October 09, 2025
Naveen

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No