



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

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CRM-M No.8066 of 2025
Date of decision: 13.02.2025

Shivam Sharma @ Ashu

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhinav Mahant, Advocate
with Mr. Ankur, Advocate
for the petitioner.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023, for quashing of order dated 11.09.2023 (Annexure P-4) passed by learned Additional Sessions Judge, Ambala, in FIR No.519 dated 27.11.2021 registered under Sections 323, 307, 34, 120-B, 201 IPC and Section 25/54/59 of the Arms Act, at Police Station Naraingarh, District Ambala, vide which the application filed by the petitioner seeking exemption from personal appearance has been dismissed and his bail was cancelled and bail/surety bonds were forfeited to State and non-bailable warrants have been issued.

2. Learned counsel appearing for the petitioner, *inter alia*, contends that the petitioner was on regular bail and was regularly appearing before the learned Court below, but due to some unavoidable circumstances, the petitioner could not appear before the learned Court below on 11.09.2023 (Annexure P-4) and he filed an application

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seeking exemption from personal appearance, however, the same was dismissed and his bail was cancelled and bail/surety bonds were forfeited to State and non-bailable warrants have been issued against him. Learned counsel for the petitioner also prays for setting-aside the order dated 12.12.2024 (Annexure P-5), vide which afresh non-bailable warrants have been again issued against the petitioner.

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 due to some unavoidable circumstances. It is also submitted that the petitioner undertakes to appear before the Court below on each and every date.

4. Notice of motion.

5. Ms. Geeta Sharma, DAG, 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 her that petitioner was already on bail and had been appearing before the learned Court below.

6. 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.

7. A perusal of the order dated 11.09.2023 (Annexure P-4)

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reflects that the learned Court below proceeded to pass the extreme order of cancellation of bail. 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 Court below is justified and, therefore, the same is accepted.

8. 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.

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

10. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 11.09.2023 (Annexure P-4), vide which the bail of the petitioner was cancelled and his bail/surety bonds were forfeited to the State and non-bailable

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warrants were issued as well as the order dated 12.12.2024 (Annexure P-5), whereby afresh non-bailable warrants have been issued against the petitioner, are hereby set aside.

11. The petitioner is directed to appear before the learned Court below within a period of 04 weeks from today and on doing so, he shall be admitted to bail on furnishing bail bonds and surety bonds to the satisfaction of the learned Court below, along with costs of Rs.10,000/- to be deposited with PGIMER Poor Patient Welfare Fund, Chandigarh, for wasting precious time of the Court.

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

13. However, in case, the petitioner fails to surrender before the learned Court below within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

13.02.2025

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No