



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

**CRM-M-30205-2025
Date of decision: 29.05.2025**

BALWINDER SINGH ALIAS GOPI

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Bhupinder Kaur Bhangu, Advocate for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. This petition has been filed under Section 528 BNSS, 2023 seeking quashing of impugned order dated 10.10.2024 (Annexure P-3) passed by learned Judicial Magistrate First Class, Kapurthala in case bearing FIR No.333 dated 08.10.2022 registered under Section 52-A of Prisons Act at Police Station Kotwali Kapurthala, District Kapurthala, whereby, the bail of the petitioner has been cancelled and his bail bonds/surety bonds have been forfeited to the State followed by issuance of non-bailable warrants.

2. Learned counsel for the petitioner submits that initially, the petitioner was confined in the jail and was not produced by the jail authorities despite issuance of his production warrants on several dates. Thereafter, when the petitioner was released from jail, he was under the impression that his presence is not necessary before the learned trial Court. Thereafter, upon his non-appearance, the learned trial Court has cancelled the bail of the petitioner and issued his non-bailable warrants on 10.10.2024.

3. Learned counsel for the petitioner further contends that non-appearance of the petitioner was not deliberate or 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.

4. It is also submitted that the petitioner undertakes to appear before the trial Court on each and every date.

5. Notice of motion.

6. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in Court, accepts notice for the respondent-State 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 him that petitioner was already on bail and had been appearing before the trial Court.

7. 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.

8. 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 willful absence. The explanation offered for non-appearance before the Court is justified and, therefore, the same is accepted.

9. 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.

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

11. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order dated 10.10.2024 (Annexure P-3), vide which, the bail bonds and bail order of the petitioner were cancelled and non-bailable warrants were issued, is hereby set aside.

12. Petitioner is directed to appear before the trial Court within a period of four weeks and on his doing so, he shall be admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the trial Court, along with costs of Rs.10,000/- to be deposited with All India Pingalwara Charitable Society, Makdoom Pura, Jalandhar, for wasting precious time of the Court.

13. Receipt of payment of cost must be presented before learned trial Court and learned trial Court is directed to verify the same.

14. It is made clear that in case, petitioner fails to appear before the trial Court within a stipulated period, the interim protection granted by this Court shall be deemed to be vacated.

May 29, 2025
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(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |