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fact was not in the knowledge of the petitioners. On 02.12.2024, when the petitioners went to the Court, they found out about the death of their counsel and even their case was transferred from previous learned Presiding Officer to a new learned Presiding Officer and in the absence of their counsel, the petitioners could not find out that in which Court their matter has been listed and resultantly, could not appear before the learned trial Court. Thereafter, on 02.12.2024, due to their non-appearance, their bail bonds/surety bonds were cancelled and forfeited to the State and non-bailable warrants along with notice to their sureties were issued.

3. Learned counsel appearing for the petitioners submits that the non-appearance of the petitioners was not deliberate and intentional and thus, aggrieved by the said order, they have 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 petitioners.

4. It is also submitted that the petitioners undertake 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 and submits that the impugned order has been passed on the sole ground of the absence of the petitioners, however, it is not disputed by him that petitioners were already on anticipatory 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. A perusal of the order dated 02.12.2024 (Annexure P-7) reflects that the trial Court proceeded to pass the extreme order of cancellation of bail for the solitary absence of petitioners. 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 trial 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 petitioners in the present case have themselves come forward and have 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 02.12.2024 (Annexure P-7), vide which the bail bonds/surety bonds of the petitioners were cancelled and non-bailable warrants were issued, is hereby set aside.

12. The petitioners are directed to appear before the trial Court within a period of two weeks from today and on their doing so, they shall be admitted

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to bail on their 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, Jalandhar Branch, for wasting precious time of the Court.

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

14. However, in case, the petitioners fail to surrender before the learned trial Court within the stipulated time period, the interim protection granted by this Court, shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

16.01.2025*Neha*

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No