



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

**CRM-M-2227-2025
Date of decision: 16.01.2025**

BOOTA SINGH

...PETITIONER

V/S

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Raman Kumar, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The prayer in the present petition under Section 528 of BNSS is for quashing the impugned order dated 26.11.2024 (Annexure P-3) passed by learned trial Court, 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 in case bearing FIR No.21 dated 17.02.2023 under Sections 22/25/61/85 of NDPS Act registered at Police Station Sidhwan Bet, District Ludhiana Rural (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was on regular bail in the FIR (*supra*) and was regularly appearing before the learned trial Court but due to the compelling circumstances, petitioner could not appear before the learned trial Court on 26.11.2024 and on the same day, learned trial Court cancelled the bail of the petitioner due to his non-appearance and his bail bonds/surety bonds were forfeited to the State and non-bailable warrants along with notice to his surety were issued.

3. Learned counsel for the petitioner submits that the 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 due to his illness.

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 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 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 26.11.2024 (Annexure P-3), vide which, the bail bonds and bail order of the petitioner was cancelled and non-bailable warrants were issued, is hereby set aside.

12. The petitioner is directed to appear before the trial Court within a period of two weeks from today 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, Jalandhar for wasting precious time of the Court.

13. It is made clear that in case, the 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.

January 16, 2025
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(HARPREET SINGH BRAR)
JUDGE

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