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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-28973-2025 (O&M)
Date of decision: 26.05.2025

Charanjit Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Gurpreet Singh, Advocate
for the petitioner.

Mr. Subhash Godara, Addl. A.G., Punjab.

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HARPREET SINGH BRAR, J. (ORAL)

1. Instant petition has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking anticipatory bail in case bearing FIR No.215 dated 07.07.2023 under Section 61 of Punjab Excise Act, 1914, registered at Police Station Tripri, Patiala, District Patiala and for setting aside the order dated 05.11.2024 (Annexure P-4) (*wrongly mentioned as Annexure P-3*) passed by learned trial Court, vide which the petitioner was declared as proclaimed person.

2. Learned counsel for the petitioner, *inter alia,* contends that after registration of FIR (*supra*), the petitioner was apprehended by the

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jurisdictional police authorities on 07.07.2023 and vide order dated 14.08.2023 (Annexure P-2), he was granted the concession of regular bail by learned Additional Sessions Judge, Patiala. Thereafter, the petitioner was regularly appearing before learned trial Court, however, due to some unavoidable circumstances, he could not appear before learned trial Court, as such, his bail was cancelled and bail/surety bonds were forfeited to the State. Further, on 29.05.2024, in the absence of the petitioner, the Investigating Officer presented the final report under Section 173 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') (*now Section 193 of BNSS*). The petitioner duly notified his counsel with regard to his health, but he failed to bring this fact to the notice of learned trial Court and he even did not file any application seeking exemption from personal appearance of the petitioner. As such, on 05.11.2024, the petitioner was declared as proclaimed person, as discernible from Annexure P-4. Admittedly, the petitioner was declared as proclaimed person without following the drill of Section 82 of Cr.P.C. (*now Section 84 of BNSS*). Immediately thereafter, the petitioner inquired about status of the case and finding that he has been declared as proclaimed person, he applied for anticipatory bail before learned Additional Sessions Judge, Patiala, which stands dismissed vide impugned order dated 14.02.2025 (Annexure P-5). It is further contended that the maximum sentence provided for the offences, under which the FIR (*supra*) is registered, is punishable upto 03 years, which is compoundable and is triable by the Magistrate. The petitioner undertakes to appear before learned trial Court on each and every

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date.

3. *Per contra,* learned State counsel opposes the prayer made by the petitioner on the ground that the petitioner deliberately absented himself and as such, learned trial Court has rightly declared him proclaimed person.

4. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that after his arrest on 07.07.2023, the petitioner was granted the concession of regular bail by learned Additional Sessions Judge, Patiala vide order dated 14.08.2023 (Annexure P-2).

5. A perusal of the record reflects that learned trial Court 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 willful absence. The explanation offered for non-appearance before learned trial Court is justified and, therefore, the same is accepted.

6. 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.

7. The sole purpose of issuance of non-bailable warrants is to

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secure presence of the accused before learned trial Court. The petitioner in the present case has himself come forward and has undertaken to appear before learned trial Court on each and every date.

8. In view of the aforesaid facts and circumstances, present petition is allowed and the petitioner is directed to appear before learned trial Court within a period of four weeks from today and on his doing so, he will be admitted to bail on the bail/surety bonds already furnished by him, however, subject to payment of Rs.5,000/- as costs, to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh, for wasting precious time of the Court.

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

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

[HARPREET SINGH BRAR]
JUDGE

26.05.2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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