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

**CRM-M-41571-2025 (O&M)
Date of decision: 04.08.2025**

Prabhat Kumar

... Petitioner

Vs.

State of Punjab and another

... Respondents

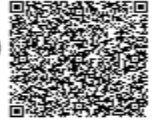
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Madhu Bala, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for quashing of the order dated 16.05.2025 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Malerkotla, in case bearing No.CHI/63/2020 titled as '*State of Punjab Vs. Ram Gopal @ Sony etc.*', arising out of FIR No.176 dated 08.11.2019 under Sections 420, 465, 466, 467, 468, 471 of the Indian Penal Code, 1860, registered at Police Station City-1, Malerkotla, whereby, while forfeiting bail/surety bonds of the petitioner to the State, arrest warrants were issued against him and all the consequential proceedings emanating therefrom.

2. Learned counsel for the petitioner, *inter alia*, contends that the



petitioner was granted the concession of regular bail by learned Additional Sessions Judge, Sangrur vide order dated 14.02.2020 (Annexure P-2) and thereafter, he was regularly appearing before learned trial Court, but due to noting down the wrong date as 28.05.2025 instead of 16.05.2025, he could not appear on 16.05.2025. As such, on account of his non-appearance, bail bonds/surety bonds of the petitioner were forfeited to the State and arrest warrants along with notice to his surety were issued.

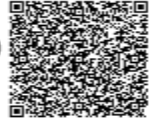
3. Learned counsel for the petitioner submits that non-appearance of the petitioner was not deliberate and intentional and thus, aggrieved by the said order, he has approached this Court by way of instant petition. It is contended that the impugned order is liable to be set aside on the ground of unintentional non-appearance of the petitioner due to noting down the wrong date.

4. It is also submitted that the petitioner undertakes to appear before learned 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 respondent No.1-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 the petitioner was already on bail and had been regularly appearing before learned trial Court.

7. I have heard learned counsel for the parties and perused the



record of the case with their able assistance and with consent of the parties, the matter is taken up for final disposal.

8. A perusal of the order dated 16.05.2025 (Annexure P-3) reflects that learned trial Court proceeded to pass the extreme order of cancellation of bail for solitary absence of the petitioner. 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, 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 arrest warrants is to 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.

11. Keeping in view the aforesaid facts and circumstances of the



case, present petition is allowed. The impugned order dated 16.05.2025 (Annexure P-3) passed by learned Judicial Magistrate 1st Class, Malerkotla, forfeiting bail/surety bonds of the petitioner to the State and issuance of arrest warrants against him, is hereby set aside.

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

13. 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.

14. It is clarified that in case the petitioner fails to surrender before learned trial Court within the stipulated period, interim protection granted by this Court shall be deemed to be vacated.

[HARPREET SINGH BRAR]
JUDGE

04.08.2025
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No