



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

**CRM-M-22391-2025  
Date of decision: 28.04.2025**

**HASAN KHAN @ HASAN**

**...PETITIONER**

**V/S**

**STATE OF HARYANA**

**...RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present: Mr. Kuldeep Singh Siwach, Advocate  
for the petitioner.

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**HARPREET SINGH BRAR, J. (ORAL)**

1.           The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of order dated 03.04.2025 (Annexure P-5) passed by learned Additional Sessions Judge, Fatehabad, 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 a case stemming from FIR No.161 dated 18.05.2022 registered under Sections 148/149/323/201/302 of Indian Penal Code (Sections 3(2)(v) of SC/ST Act added later on and Section 346 of IPC was deleted) at Police Station City Ratia, District Fatehabad.

2.           Learned counsel for the petitioner submits that the petitioner was granted regular bail vide order dated 16.04.2024 (Annexure P-2) by this Court. Thereafter, he has been attending the trial on each and every date and not even once, he sought exemption from his personal appearance. Moreover, on 03.04.2025, the petitioner was present in the Court and one PW, namely Dr. Navjot Singh was also present, however, learned trial Court cancelled the bail



of the petitioner and forfeited his bail/surety bonds. Learned counsel refers to Annexure P-6 i.e. the order passed on the same date by the same Court, whereby, it has been recorded that petitioner has appeared before the Court at 12:20 PM and he was ordered to be taken into custody and sent to judicial custody. Since then, the petitioner is behind bars. Learned counsel furthermore submits that the approach adopted by the learned trial Court is erroneous and contrary to law settled in this regard as the petitioner was not even absent, rather, he was present before the trial Court, as discernible from Annexure P-6 and still passing of impugned order (Annexure P-5) has caused great prejudice and injustice to him and the said order deserves to be set aside.

3. Learned counsel for the petitioner *inter alia* 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 due to his illness.

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

5. Notice of motion.

6. Ms. Geeta Sharma, DAG, Haryana, 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 trial Court is justified and, therefore, the same is accepted. Moreover, the petitioner appeared before the trial Court on the same very day at 12:20 PM as discernible from Annexure P-6 and since then, he is in judicial custody.

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 03.04.2025 (Annexure P-5), vide which, the bail bonds and bail order of the petitioner were cancelled and non-bailable warrants were issued, is hereby set aside and his bail/surety



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bonds are hereby restored. The petitioner be released from the custody, if not required in any other case.

**April 28, 2025**  
*manisha*

**(HARPREET SINGH BRAR)**  
**JUDGE**

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