



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

138

CRM-M-10718-2025  
Decided on : 25.02.2025

Saloni and another

. . . Petitioner(s)

Versus

State of Haryana

. . . Respondent(s)

**CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH**

PRESENT: Mr. Sahil Choudhary, Advocate  
for the petitioner(s).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

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**SANJAY VASHISTH, J. (Oral)**

1. Instant petition, under Section 528 of the BNSS, 2023 (earlier Section 482 Cr.P.C.), has been filed for quashing of the order dated 19.02.2025 (Annexure P-1), passed by Ld. Sub Divisional Judicial Magistrate, Shahbad, whereby after canceling the bail of the petitioner, non-bailable warrants have been issued against them, on account of their non-appearance in a case filed under Section 138 of the Negotiable Instruments Act, 1881 (in short, 'NI Act'), bearing No. NACT/163/2020, titled as, "Simranjeet v. M/s Aussican Consultants Etc.".

2. Learned counsel for the petitioners contends that in a case filed under Section 138 of the NI Act, which is pending since the year 2020, petitioners have been regularly attending the Court proceedings. Recently, on 15.02.2025 also, they appeared and recorded their statements under Section 313 Cr.P.C.

Further contends that on 19.02.2025, petitioners had four other cases listed before the District Court, Kurukshetra, for examination of prosecution witnesses. Thus, due to unforeseen and unavoidable circumstances, they were unable to attend these proceedings in-person. However, they duly filed personal exemption applications in those cases, which were considered and allowed by the respective Courts. In this regard, learned counsel refers to Annexures P-4 to P-7, respectively (i.e. orders passed by the Courts *qua* exemption from personal appearance in those respective cases).

3. Learned counsel for the petitioners submits that on 19.02.2025, petitioners moved specific application for seeking exemption from personal appearance before Ld. Trial Court, Shahabad, by submitting that they are not medically fit, thus, unable to attend the Court proceedings, but with taking into consideration the said fact, and while cancelling the bail already granted to them, Ld. Trial Court issued non-bailable warrants of arrest for 21.02.2025.

Learned counsel, thus, submits that absence of the petitioners was neither intentional nor deliberate, but due to the reasons, as mentioned above.

4. Learned Counsel further submits that now petitioner is ready to join the process of law, however, he be directed to be released on bail, on his surrendering before the Court and thus, be protected from arrest. In case, one opportunity is granted, petitioner also undertakes that he would not absent himself in future, without there being prior permission from the Court, and fully cooperate for early disposal of the trial.

5. Notice of motion.

6. Learned State counsel puts an appearance, and opposes the request of the petitioner by submitting that petitioner does not deserve any sympathy, because, he has misused the concession of bail granted by the Court. Learned State counsel by pointing out the irresponsible conduct of the petitioner, submits that there is every possibility that for the purpose of delaying the trial, he would again be absenting during the proceedings.

7. In number of cases, wherein, accused stopped appearing in criminal cases after being released on bail and thereby compelling the Court to issue non-bailable warrants by cancelling the bail already granted or such accused is declared 'Proclaimed Person'/Proclaimed Offender', after examining the facts, this Court has formulated to apply a uniform method by satisfying itself that such accused would appear before the concerned Court, to enable it to proceed further instead of delaying the proceedings to await the presence of accused.

Intentional or unintentional default of the accused can be dealt with by examining the facts from case to case in which he is involved, and where it is realised that absence or prolonged absence of such accused is intentional to evade the process of law, he/she can be penalized after examining the nature of crime in which he is facing the proceedings and thereupon by imposing some cost amount subject to his/her capacity to pay.

Primary object of every Court is only to examine the commission of crime in question before it, *vis a vis*, the person/accused, who is subjected to such proceedings, and if possible justice be imparted at the earliest without unnecessary delay. It is not expected that undue time would be devoted in securing the presence of absconded accused and also to waste energy by enforcing the special mechanism to arrest such accused.

Considering all such aspects, this Court in the case of *Ashish Kumar Honda @ Ashish Handa Vs. State of Punjab, 2022 (4) RCR (criminal) 765; Law Finder Doc Id # 20238111* considered similar plea of appearance, expressed at the instance of the accused, who failed to appear before the Court at appropriate time, and observed that:

*“paramount consideration of the Court is to secure presence of accused on each and every date for speeding up the trial for its final conclusion. Already Courts are flooded with so much litigation, resulting in slow pace of work, because of more than one reason. The required energy and manpower be used for expediting the proceedings of the Court, instead of running after the accused persons to get hold of them.”*

Again, this Court has considered the aforementioned similar plea in case *Veena @ Veena Devi v. State of Punjab (CRM-M-2206-2025, decided on 16.01.2025.*

8. I have considered the submissions of both the sides and examined the relevant material available on record. The petitioners have remiss in appearing before the Court only on one date, and consequently, on 19.02.2025, when impugned order cancelling the bail and issuance of non-bailable warrants of arrest, has been passed against them. It also cannot be left unnoticed that within a period of one week of the absence from the Court, and on coming to know about passing of the impugned order, petitioners have moved the present petition, showing their inclination to submit themselves before the trial Court.

9. In totality of circumstances, I am of the view that the petitioners can be given one chance to appear before the trial Court, so that proceedings may restart and continue in smooth manner. Accordingly, plea of the petitioners is accepted. Impugned order dated 19.02.2025 (P-1) is hereby **set aside** to the extent of issuance of non-bailable warrants against the

petitioners, and they are directed to be released on bail, in the eventuality of surrender by them before the trial Court on or before 12.03.2025.

The petitioners shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court, in case the bail bonds have already been forfeited. Besides, petitioners would also submit specific undertaking/affidavit that they will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of their conduct.

However, this order shall be subject to the payment of Rs.10,000/- as costs, to be deposited by the petitioner in an Old Age Home of the area, as may be decided by the learned Trial Court. The Trial Court shall also specify the time frame within which such costs will be required to be deposited, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

10. **With aforementioned terms, present petition stands disposed of.**

**(SANJAY VASHISTH)  
JUDGE**

**February 25, 2025**

*J.Ram*

*Whether speaking/reasoned: Yes/No*  
*Whether Reportable: Yes/No*