



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

CRM-M-17885-2025

Date of Decision:02.04.2025

Jitender @Kala

...Petitioner

vs.

State of Haryana

...Respondent

Coram : **Hon'ble Mr. Justice N.S.Shekhawat**

Present: Mr. Naveen Kashyap, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to quash the order dated 21.01.2025 (Annexure P-4), passed by the Additional Sessions Judge, Faridabad, whereby the exemption application filed by the petitioner was dismissed and his bail was ordered to be cancelled in case FIR No.129, dated 25.04.2019 under Sections 406, 420, 323, 379-B of IPC, registered at Police Station Sector-17, Faridabad, District Faridabad (Annexure P-1).

2. Learned counsel for the petitioner contends that the FIR in the present case was registered against the petitioner on 25.04.2019 and the petitioner was ordered to be released on bail, vide order dated 20.07.2023 (Annexure P-2). Thereafter, the petitioner was regularly appearing before the trial Court. On 21.01.2025, the petitioner was suffering from fever and requested his counsel to move an application for exemption from personal

appearance before the trial Court. Even his counsel was present before the Court and had moved the application as per his directions, however, the learned Court wrongly rejected the prayer made by the petitioner and his bail was cancelled and the bail bonds were forfeited to the State. Learned counsel further contends that the petitioner had always appeared before the trial Court and due to his ill health, he had moved the present application before the trial Court, which has been wrongly rejected.

3. Notice of motion.

4. On the asking of the Court, Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondent-State and submitted that all the accused were repeatedly moving applications before the trial Court and had not allowed the trial Court to proceed with the trial in the present case. Even the petitioner and his co-accused are habitual absentees and were moving applications for exemption from personal appearance on frivolous grounds. Even the petitioner had not produced any medical record before the trial Court and the application for exemption was rightly rejected by the trial Court.

5. I have heard learned counsel for the parties and perused the record.

6. From the record, it is apparent that various accused in the present case have moved applications for exemption from personal appearance from time to time, just to delay the trial in the present case. Even the trial Court has noticed various dates, on which, the applications were moved by different accused and has observed that the accused in the present case are habitual absentees. However, in the case of the petitioner, he had already instructed his

counsel to move an application for exemption on the ground that the petitioner was suffering from fever and even he was represented by a counsel. Moreover, learned counsel for the petitioner has assured the Court that in future, the petitioner shall appear on each and every date of hearing before the trial Court and shall not remain absent without seeking prior permission of the Court.

7. Thus, taking a lenient view of the matter, the petitioner is permitted to surrender before the Trial Court/Duty Magistrate within a period of two weeks from today and on his surrender, he shall be admitted to bail. It is also ordered that the earlier bail bonds/surety bonds furnished by the petitioner shall be restored. However, the petitioner shall pay a cost of Rs.50,000/-with the Punjab and Haryana High Court Bar Clerks' Association, within a period of 02 weeks.

8. At the time of surrender, the petitioner shall also file an affidavit before the concerned Court that he shall continue to appear before the Court on each and every date of hearing and shall not absent himself during the Court proceedings, except with prior permission of the Court.

9. The Trial Court/Duty Magistrate shall also be at liberty to impose any other conditions, as it deems fit in the peculiar facts and circumstances of case.

10. The petition stands allowed in the above terms.

11. Since the matter is pending since 2019, the trial Court is directed to expedite the trial.

(N.S.SHEKHAWAT)
JUDGE

02.04.2025
hitesh

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