



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

**CRM-M-22344-2025
Date of decision: 29.04.2025**

VINOD KUMAR

...PETITIONER

V/S

DINESH KUMAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Ajay Vijrania, Advocate for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Section 528 BNSS, 2023 seeking quashing of orders dated 03.03.2025, 20.03.2025 and 09.04.2025 (Annexures P-6 to P-8) passed by learned Additional Sessions Judge, Bhiwani, 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 complaint case filed under Section 138 of Negotiable Instruments Act, 1881.

2. Learned counsel for the petitioner submits that the petitioner was extended the benefit of bail by the Court of learned Additional Sessions Judge, Bhiwani on 01.03.2025. However, he could not arrange the surety to the satisfaction of learned Additional Sessions Judge, Bhiwani. Thereafter, he could not appear before the learned lower Appellate Court. Upon his non-appearance, the learned trial Court cancelled the bail of the petitioner and non-bailable warrant was issued.

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 orders are liable to be set aside on the ground of unintentional non-appearance of the petitioner.

4. It is also submitted that the petitioner undertakes to appear before the 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 the respondent-State and submits that the impugned orders have 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 Court is justified and, 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 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 orders dated 03.03.2025, 20.03.2025 and 09.04.2025 (Annexures P-6 to P-8), vide which, the bail bonds and bail order of the petitioner were cancelled and non-bailable warrants were issued, are hereby set aside.

12. Petitioner is directed to appear before the learned lower Appellate Court within a period of two weeks from today and on his doing so, he shall be admitted to bail, in terms of the order dated 01.03.2025 passed by learned Additional Sessions Judge, Bhiwani, along with costs of Rs.10,000/- to be deposited with Poor Patients Welfare Funds, PGIMER, Chandigarh for wasting precious time of the Court.

13. It is made clear that in case, petitioner fails to appear before the lower Appellate Court within a stipulated period and to deposit the aforesaid cost, the interim protection granted by this Court shall be deemed to be vacated.

(HARPREET SINGH BRAR)
JUDGE

April 29, 2025
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |