



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

CRM-M-49295-2025
Date of decision: 05.09.2025

DIPESH JAIN

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present: Mr. Gursher Singh Dhillon, Advocate
 for the petitioner.

 Mr. G.S. Dhaliwal, AAG, Punjab.

YASHVIR SINGH RATHOR, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of order dated 08.08.2025 (Annexure P-6) passed by Court of Ld. Additional Chief Judicial Magistrate, Bathinda whereby bail of the petitioner has been cancelled and bail bonds have been forfeited and nonailable warrants have been issued in case arising out of FIR No.98 dated 03.11.2016 under Section 420, 406, 467, 468, 471, 120-B of IPC registered at Police Station Cantt Batinda, on account of his absence.

2. Notice of motion. Mr. G.S. Dhaliwal, AAG, Punjab accepts notice on behalf of the respondent-State.

3. I have heard the learned counsel for the petitioner as well as learned State counsel and have gone through the material on the file.



4. Learned counsel for the petitioner contends that petitioner was released on bail in the present case and petitioner, who is a resident of Mumbai had earlier moved applications seeking exemption, which were allowed. On 05.05.2025, petitioner was present and case was adjourned to 08.08.2025 for filing of a reply to the application under Section 239 Cr.P.C. moved by the petitioner. However, on 08.08.2025, an application for exemption was moved on his behalf, which was rejected, and the learned trial Court observed that out of six hearings, the petitioner had remained absent on three dates and he habitually seeks exemption. Consequently, the request for exemption was declined and his bail was cancelled. Learned counsel next contended that on 08.08.2025, the case was fixed for filing of reply to the application under Section 239 Cr.P.C. moved by the petitioner and no substantial proceedings were to be conducted on that date. Therefore, it cannot be inferred that the petitioner had tried to hamper the progress of the trial on that date. Rather, neither his absence was intentional nor did he ever intended to abscond or delay the trial. Learned counsel further contended that object of bail is not punitive but to ensure the presence of accused during the trial and his past conduct also establishes that he had no intention to disobey the process of law and he undertakes to abide by all the terms and conditions that may be imposed by the Court. It has been prayed that impugned order be set aside.



5. On the other hand, learned State counsel has opposed the prayer and argued that petitioner absented and has hampered the trial and the impugned order is not liable to be quashed.

6. A Co-ordinate Bench of this Court, in the judgment reported as Law Finder Doc.id# 2765158, 2025:NCPHHC:106708 “**Sahib Singh @ Saab Singh Vs. State of Punjab**” has held that issuance of non-bailable warrants should not be exercised in a mechanical manner and must be adopted sparingly, only upon recording cogent reasons reflecting the necessity of such a stringent course. It has been further held that cancellation of bail amounts to unjustifiable restriction on procedural rights of petitioner in the absence of any misconduct or deliberate attempt to evade proceedings and petitioner-accused was directed to appear before the trial Court and to furnish an undertaking to appear on each and every date of hearing and was ordered to be released on bail. It was further held that object of bail is to secure appearance of accused at trial and deprivation of liberty must only be necessitated by extraordinary circumstances and courts should avoid punitive approach and adhere to procedural safeguards enshrined under the law. In holding so, reliance was placed upon 1978(1) SCC 118 “**Gurcharan Singh Vs. State (UT of Delhi)**” and (2012) 1 SCC 40 “**Sanjay Chander Vs. CBI**”.

7. In the present case also, the bail was cancelled vide order dated 08.08.2025. On that date, the case was fixed for filing of reply to the application under Section 239 Cr.P.C. moved by the petitioner and no



substantial proceedings were going to be conducted from which it could be inferred that the petitioner had wilfully absented himself to hamper the trial. Rather, instead of cancelling the bail on account of his non-appearance, the Court ought to have exempted his personal appearance with a direction to appear on the next date when the case was adjourned for arguments on the application under Section 239 Cr.P.C. and the punitive order of cancellation of bail could thus have been avoided. Merely, because petitioner had sought exemption on three dates out of six dates of hearing, it cannot be inferred that he had wilfully absented himself or was hampering the trial. The bail could have been cancelled only after recording a satisfaction that petitioner had wilfully absented with cogent reasons reflecting the necessity of such a stringent course. On this account, the impugned order is liable to be set aside.

8. As a result of aforesaid discussion, the present petition is allowed and impugned order dated 08.08.2025 (Annexure P-6) is set aside and it is ordered that petitioner shall be released on bail to the satisfaction of the trial Court on his appearance before the trial Court within 15 days from today. In case, he fails to appear within 15 days the benefit of bail granted by way of this order shall come to an end.

(YASHVIR SINGH RATHOR)
JUDGE

05.09.2025

Priyanka Thakur

Whether speaking/reasoned :

Yes/No

Whether Reportable :

Yes/No