

**CRM-29822-2021 in/and
CRM-M-12289-2021**

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

**CRM-29822-2021 in/and
CRM-M-12289-2021**

Date of decision-20.09.2021

Rajesh Mahajan

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mohit Vashishat, Advocate
for the applicant-petitioner.

MANOJ BAJAJ, J.

CRM-29822-2021

This application is for pre-poning the date of hearing of the main petition to an early date, which is fixed for 28.09.2021.

Notice in the application.

At this stage, Mr. Ramandeep Singh Sandhu, Sr.DAG, Punjab accepts notice on behalf of the respondent-State and does not oppose the prayer.

Application is allowed and date of hearing is pre-poned to today.

Main case

Petitioner has filed this petition under Section 482 Cr.P.C seeking quashing of the order dated 26.08.2019 (Annexure P-6) passed

by learned JMIC Kapurthala, whereby petitioner has been declared as proclaimed offender in FIR No.220 dated 31.08.2017 registered under Sections 406 and 420 IPC at Police Station City Kapurthala as well as order dated 04.12.2020, whereby revision of the petitioner was dismissed.

Briefly the allegations against the petitioner are that in the year 2014, while he was serving as an accountant with Nitesh Fruit Co., he committed the offence of cheating while maintaining the accounts and after completion of investigation, the final report under Section 173 Cr.P.C was submitted against him for the offence punishable under Sections 406 and 420 IPC.

Learned counsel for the petitioner has argued that the petitioner was granted the concession of bail and was regularly appearing during trial proceedings, but because of noting the wrong date, he absented on 26.03.2019 and his bail was cancelled. He has argued that since the father of the petitioner was not well, therefore, he could not appear before the trial Court, however, to secure his presence, initially the arrest warrants were issued against him and later on he was declared proclaimed offender vide order dated 26.08.2019. Learned counsel has argued that the notice of proclamation dated 09.07.2019 (Annexure P-2) was improper as the particulars of the FIR were not mentioned therein, and instead the case was shown as a complaint case

under Section 138 Negotiable Instruments Act, 1881. He submits that the statement of witness of affixation, namely, Surjit Singh is also not correct as no such person resides at the said address. He submits that in view of the above defects, the order dated 26.08.2019 declaring the petitioner as proclaimed offender is not sustainable and the same be set aside.

The prayer is opposed by learned State counsel assisted by ASI Lakhwinder Singh, who has referred to Reply by way of affidavit of Surinder Singh, PPS Deputy Superintendent of Police, Sub Division: Kapurthala, District Kapurthala and argued that after cancellation of his bail on 26.03.2019, the petitioner had applied for anticipatory bail and the learned Additional Sessions Judge, Kapurthala vide order dated 06.05.2019 (Annexure R-1) granted him a week's time to surrender and join the proceedings before the trial Court with a further direction to release him on bail upon his furnishing the requisite bonds. Learned State counsel has pointed out that since the said concession was never availed, his application stood dismissed. He has further pointed out that the petitioner again sought extension of time to appear before the trial Court and his prayer was accepted vide order dated 23.05.2019, by affording him another seven days to comply with the order dated 06.05.2019, but again, he failed to join the trial proceedings without any justification. According to him, the third application for extension

of time by petitioner was declined on 14.08.2019 and finally he was declared as proclaimed offender vide order dated 26.08.2019. He submits that petitioner has been rightly declared as proclaimed offender and the petition deserves to be dismissed.

After hearing learned counsel for the petitioner, this Court finds that the petitioner was well aware of the trial proceedings and had wilfully kept himself away from the said proceedings even after cancellation of his bail. The argument of learned counsel that as the proclamation notice and the statement of witnesses (Annexures P-2 and P-3) are defective, the order dated 26.08.2019 deserves to be set aside is without any merit, because the petitioner has never shown any inclination to rejoin the trial proceedings despite the conditional bail orders dated 06.05.2019 and 23.05.2019. Even after affixation of the proclamation notice dated 09.07.2019, the petitioner had once again approached the Court of learned Additional Sessions Judge, Kapurthala for extension of time, and the court refused the same on 14.08.2019. Admittedly, the petitioner was granted sufficient time to surrender and join the trial proceedings alongwith protection against arrest/detention, but the petitioner never bothered to avail this opportunity despite extension of time. Thus, it is evident that it was in his knowledge that the trial Court has initiated the coercive steps against him to secure his presence, but the petitioner continued his stubborn attitude to avoid his

appearance before the trial Court.

Resultantly, no ground is made out for exercise of inherent
power under Section 482 Cr.P.C.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

20.09.2021

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