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

CRM-M-27578-2022 (O&M)

Date of decision : 30.08.2022

Santosh Jhawar

...Petitioner

Versus

Ishwar Choudhary and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sarfaraj Anjum, Advocate for the petitioner.

Mr. Dhruv Sihag, AAG, Haryana.

VIKAS BAHL, J. (ORAL)

CRM-22305-2022

This is an application filed for grant of leave under Rule 3/A (1) of Chapter VI, Part B, Volume V of Punjab and Haryana High Court Rules and Orders to file the present petition.

In view of averments made in the application, the same is allowed and leave is granted under the aforesaid Rules and Orders to file the present petition.

Main case

This is a petition filed under Section 482 of Cr.P.C. for quashing of order dated 04.03.2022 passed by the Judicial Magistrate Ist Class, Gurugram, vide which the petitioner has been declared as proclaimed

person in complaint No.8119 of 2019 under Section 138 of the Negotiable Instruments Act, 1881.

Learned counsel for the petitioner has submitted that the order dated 04.03.2022 is illegal and against law and thus, deserves to be set aside and the petitioner is now ready to appear before the trial Court.

This Court has heard the learned counsel for the petitioner and has perused the paper book.

A perusal of order dated 09.12.2021 (Annexure P-5) would show that it has been observed in the same that the petitioner had marked her presence through her counsel on 15.10.2019 and thereafter, the petitioner did not appear before the Court and in spite of the fact that the petitioner was well aware of the proceedings, she was delaying the same without any plausible reason. The zimni orders from 15.10.2019 to 09.12.2021 have not been annexed alongwith the present petition to rebut the same. It is, thus, apparent that for a period of more than 2 years, the petitioner did not appear before the trial Court and thereafter, on 09.12.2021, an application was moved on behalf of petitioner before the trial Court for cancellation ofailable warrants which was rightly rejected and non-ailable warrants were issued. The order dated 09.12.2021 has neither been challenged in the present petition, nor was challenged immediately after passing of the same, although, the petitioner was well aware of the passing of the said order. On 04.03.2022, the proclamation under Section 82 Cr.P.C. was ordered to be issued for 15.07.2022. Even the order dated 15.07.2022 has not been produced on record. The complaint, in the present case, is dated 02.03.2019 and has been filed by one Ishwar Choudhary against the petitioner-accused No.1 and the

said complaint has been filed under Section 138 read with Section 142 of the Negotiable Instruments Act, 1881 and the said complaint pertains to dishonour of cheque dated 29.11.2018 amounting to Rs.23.5 crores. The petitioner is the wife of Madan Gopal Jhawar who is accused No.4 and has managed to delay the proceedings for a period of more than three years.

Keeping in view the abovesaid facts and circumstances, the present petition deserves to be dismissed. Hence, the same is dismissed.

However, since, the petitioner is a lady, in case she appears before the trial Court within a period of 15 days from today and surrenders before the trial Court and applies for regular bail, the trial Court is requested to consider her bail application as expeditiously as possible, preferably within a period of one week from the date of moving of the said application.

30.08.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No