

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

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CRM-M-43250-2023
Date of decision: 31.08.2023

Sandeep Saluja

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Amit Choudhary, Advocate for the petitioner.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of order dated 14.07.2023 passed by Judicial Magistrate Ist Class, Panipat, whereby the petitioner has been declared as proclaimed person in complaint case no.NACT 1495/2019 dated 22.07.2019 under Section 138 of NI Act, 1881.

2. Learned counsel submits that the petitioner has been declared proclaimed person in a complaint filed by respondent No.2 under Section 138 of Negotiable Instruments Act, 1881 vide impugned order dated 14.07.2023 without any service effected upon him, on account of the fact that he had shifted from Zirakpur to Panchkula and in the registered AD, the previous address of the petitioner had been mentioned, which is apparent from the

report dated 13.06.2023 of the serving Constable. Rent agreement showing that he was residing in Panchkula but in the complaint his previous address of Zirakpur was mentioned. Thus, he never received the summons. The absence of the petitioner was neither wilful nor deliberate and on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and it is prayed that one opportunity may be granted to him to surrender before the learned trial Court, even if the same is subject to costs. Reliance is placed on the the orders of this Court in CRM-M-38277-2022 dated 26.08.2022, in the case of **Surjit Singh vs. State of Punjab**, CRM-M-39000-2022, titled as **Raghav vs. State of Punjab**, decided on 09.09.2022 and CRM-M-36490-2022, titled as **Major Singh vs. State of Punjab**, decided on 15.9.2022.

3. Notice of motion.

4. Mr. Jagdish Manchanda, Addl. AG, Haryana, who has appeared on receipt of advance copy of the petition, opposes the same by submitting that the impugned order is legal and valid and has been rightly passed by the trial Court on account of non-appearance of the petitioner.

5. No order prejudicial to the rights of the private respondent is being proposed to be passed by this Court, thus, there is no requirement for the notice to be issued to it.

6. Heard.

7. The very purpose of initiation of proclamation proceedings, is to compel and secure the presence of the accused to face trial and establish the rule of law, as also to ensure finalization of the proceedings.

8. Adverting to the facts of the present case, the reasons for non-appearance of the petitioner that led to the passing of the impugned order, appear to be justified. At times, the accused can be prevented by sufficient reasons to put an appearance before the Court and such an absence cannot necessarily be construed as deliberate and wilful. However, it is incumbent upon him to join the proceedings, before the trial Court, for the culmination of the same. Considering the fact that the absence of the petitioner was not wilful or deliberate and his readiness and willingness to surrender and join the proceedings, in case one opportunity is granted to the petitioner, no prejudice shall be caused to any of the parties, rather his joining the proceedings would help in expediting the trial. Thus, in order to make the ends of justice meet and finding judgments referred to above being applicable to the instant case, the present petition deserves to be allowed.

9. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 14.07.2023 is set aside subject to surrender by the petitioner before the trial Court on or before 14.09.2023 and depositing Rs.10,000/- to be paid to the complainant. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction. He is also directed to furnish an undertaking by way of an affidavit that he will appear on each and every date of hearing before the trial Court, unless specifically exempted by the Court. He shall not leave the country without prior permission of the Court. The trial Court may impose any other condition that it may deem appropriate in the facts and circumstances of the present case.

