

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

112

CRM-M-43798-2023

Date of decision: 02.09.2023

Narinder Bajaj

...Petitioner

Versus

Axis Bank Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Chetan Bansal, Advocate for the petitioner.

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of impugned order dated 01.12.2022, Annexure P-1 passed by the learned Judicial Magistrate Ist Class, Amritsar, whereby the petitioner has been declared as proclaimed person in complaint case No.NACT/4559/2019 dated 12.09.2019, registered under Section 138 of Negotiable Instruments Act, 1881.

2. Learned counsel contends that the petitioner was declared proclaimed person by the trial Court vide order dated 01.12.2022, Annexure P-1 on account of his absence, the explanation for which is that the petitioner during Covid-19 shifted to Mohali. However, the address mentioned in the complaint was of Amritsar, where he used to previously reside, thus, he never received the summons. Further that the loan account has since been now

closed after the entire payment was paid and No Dues Certificate dated 09.12.2022 has also been issued by the Bank, a copy of which is annexed as Annexure P-4. The absence of the petitioner was neither wilful nor deliberate but was on account of the reason aforesaid. Further that he is ready and willing to join the proceedings and he prays for grant of one opportunity to surrender before the learned trial Court, even if the same is subject to costs. Reliance is placed on 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. Rahul Garg, Advocate has put in appearance on behalf of the respondent-Bank and on instructions from Senior Manager Sh. Aditya Vikram affirms the factum that the loan account has been closed after the entire dues having been paid.

5. Heard.

6. 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.

7. 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. Considering the fact that the absence of the petitioner was not wilful or deliberate, his readiness and willingness to surrender and join the proceedings and the entire amount stands paid as has been affirmed by the complainant-Bank, this Court finds that 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.

8. In view of the afore-referred orders and the facts and circumstances of the case, the impugned order dated 01.12.2022 is set aside subject to surrender by the petitioner before the trial Court on or before 14.09.2023. On furnishing bail/surety bonds, the trial Court shall release him on bail subject to its satisfaction.

9. The present petition is allowed.

10. Before parting with this order, it is made abundantly clear that in case the petitioner does not adhere to the aforesaid, the present petition shall be deemed to have been dismissed without any reference to this Court.

(AMAN CHAUDHARY)
JUDGE

02.09.2023
Ankur

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No