

CRM-M-47833-2023 (O&M)
Date of decision: 22.09.2023

...Petitioner

...Respondent

Present: Mr. B.S. Jatana, Advocate for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition is for quashing/setting aside the impugned order dated 06.09.2023 (Annexure P-17) passed by the learned ACJM, Mansa, in case FIR No.54 dated 01.04.2021 registered under Sections 420, 465, 467, 468, 471, 120-B IPC at Police Station City-2, Mansa, District Mansa, whereby the petitioner has been declared a proclaimed offender, along with all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the petitioner was granted regular bail vide order dated 02.09.2022 passed by this Court after 01 year and 03 months custody, thereafter, the petitioner was regularly appearing before the learned trial Court. It is further submits that because of disc problem and eye-surgery, the petitioner could not appear before the Court on 24.02.2023, his application for personal appearance was also dismissed on the same day and accordingly, his surety/bail bonds were cancelled and forfeited to the State and non-bailable warrants of arrest were issued against him. On 19.07.2023, the learned trial Court has ordered to issue publication of proclamation of petitioner and the case was adjourned to 22.08.2023 and as per the statement of serving Constable recorded on 22.08.2023, the

proclamation notice was pasted on 05.08.2023 on public place and the petitioner was declared as a proclaimed offender on 06.09.2023, which is a clear-cut case of non-compliance of mandatory provisions.

He further submits that non-appearance of the petitioner was not intentional and that the petitioner is ready to appear before the learned trial Court. The complainant and victim have already turned hostile.

Notice of motion.

On the asking of this Court, Mr. C.L. Pawar, Addl. AG Punjab, accepts notice on behalf of the respondent-State.

It is a case, wherein the petitioner had been regularly appearing before the Court, but only on a solitary date i.e. 24.02.2023, he could not appear before the trial Court because of health problems and now he is ready to appear before the learned trial Court to face the trial. The non-appearance of the petitioner appears to be not intentional.

The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and judgments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

Keeping in view the above fact, the order dated 06.09.2023 (Annexure P-17) passed by the learned ACJM, Mansa, in case FIR No.54 dated 01.04.2021 registered under Sections 420, 465, 467, 468, 471, 120-B IPC at Police Station City-2, Mansa, District Mansa, whereby the petitioner has been declared a proclaimed offender, is set aside subject to him

depositing the costs of Rs.20,000/- with the District Legal Services Authority, Mansa. On his doing so, the petitioner shall be released on bail, subject to him furnishing the fresh bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Disposed of.

22.09.2023
Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No