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

CRM-M-10582-2024

Date of decision: 28.02.2024

Sukhjit Singh Grewal

...Petitioner

Versus

Kotak Mahindra Bank

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Ms. Mannat Anand, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 482 Cr.P.C. for quashing of order dated 05.07.2023 (Annexure P-4) passed by the Court of Judicial Magistrate, Ist Class, Chandigarh whereby the petitioner has been declared proclaimed person in a criminal complaint NACT-4132-2022 titled Kotak Mahindra Bank Vs. Sukhjit Singh filed under Section 138 NI Act.

2. Counsel for the petitioner submits that the petitioner is permanent resident of Canada and even at present he is living in Canada. It is further submitted that at the relevant time, when proceedings under Section 82 Cr.P.C. were initiated, the petitioner was not available in India and he did not receive any notice or summons through the concerned embassy. It is further contended that even otherwise, the impugned order is not passed in consonance with the mandatory provisions of Section 82 Cr.P.C. and thus, the impugned order deserves to be set aside. It is further submitted that petitioner is ready to join the proceedings with the learned trial Court as the

offence under Section 138 NI Act is bailable offence. In support of her contentions, counsel for the petitioner has placed reliance upon the documents (Annexure P-1 to Annexure P-8).

3. I have considered the submissions made by counsel for the petitioner and gone through the documents (Annexure P-1 to Annexure P-8).

4. From the perusal of (Annexure P-5) which the report submitted by the serving police official dated 30.04.2023. It is apparent that the proclamation issued against the petitioner was not publicly read in some conspicuous place of the town/village wherein the petitioner was ordinarily residing, as per the mandate of Section 82(2)(i)(a) Cr.P.C. Further as has been stated by the counsel for the petitioner at the relevant time, petitioner was not available in India and no information with regard to pendency of the aforesaid criminal complaint was received by him through the concerned embassy. In the given circumstances, the impugned order is unsustainable in eye of law and deserves to be set aside.

5. For the foregoing reason, without expressing any opinion on the merits of the case and without issuing notice to the respondent, the present petition is hereby allowed and impugned order dated 05.07.2023 (Annexure P-4) is set aside, with direction to the petitioner to appear before the learned trial Court within next 4 weeks and to move application for grant of regular bail, failing which the present petition will be deemed have been dismissed.

28.02.2024

Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No