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2024.PHHC.120298



CRM-M-16562-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-16562-2024
Date of decision: 12.09.2024

SUNIL BHATT

....Petitioner

Versus

STATE OF UT CHANDIGARH AND ANOTHERRespondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY

Present:- Mr. Ujwal Anand, Advocate and
Mr. Aryan Singh, Advocate for the petitioner.

Mr. Simsi Dhir Malhotra, APP, UT Chandigarh.

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SANJIV BERRY, J. (ORAL)

The instant petition under Section 482 Cr.P.C. has been moved by the petitioner seeking quashing and setting aside of the impugned order dated 20.03.2024 (Annexure P-8) passed by learned Judicial Magistrate 1st Class, Chandigarh arising out of complaint in “NACT 174 of 2022 titled as *M/s Kamal Motors Versus M/s New Kamal Motors*” (Annexure P-1) filed against the petitioner under Section 138 of the Negotiable Instruments Act, 1881, whereby the petitioner was declared as proclaimed person.

2. Learned counsel for the petitioner *inter alia* contends that in compliance of the order dated 05.04.2024 and 16.04.2024, petitioner



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appeared before the learned trial Court on 22.04.2024 and furnished requisite bail bonds, surety bonds and also deposited the costs as imposed by this Court and placed on record copy of order dated 22.04.2024 passed by learned Judicial Magistrate 1st Class, Chandigarh. He contends that since the petitioner has joined the trial Court proceedings, as such the order dated 20.03.2024 (Annexure P-8) passed by learned Judicial Magistrate 1st Class, Chandigarh, whereby the petitioner was declared as proclaimed person, be quashed.

3. Learned State counsel has not disputed the aforesaid factual matrix of the case and submits that petitioner appeared on 22.04.2024 before the learned trial Court and furnished requisite bail bonds/surety bonds.

4. Heard.

5. During the course of the proceedings, following order was passed on 05.04.2024:-

“1. The instant petition under Section 482 Cr.P.C. has been filed seeking quashing and setting aside the impugned order dated 20.03.2024 (Annexure P-8) arising out of complaint filed against the petitioner under Section 138 of Negotiable Instruments Act, 1881, i.e. “NACT 174 of 2022 titled M/s Kamal Motors Versus M/s New Kamal Motors” (Annexure P-1), whereby the petitioner has been declared as proclaimed person.

2. Learned counsel for the petitioner, inter alia, contends that the petitioner, after having been summoned in the complaint case titled M/s Kamal Motors Versus M/s New Kamal Motors bearing CIS No. NACT 174 of 2022, had been appearing in the learned trial Court after being granted concession of bail since 10.03.2023. He further submits that on 14.12.2023, the petitioner could not appear in Court due to circumstances beyond his control and even his counsel could not be communicated and the learned trial Court marked the absence



of the petitioner and directed him to be served through non-bailable warrants of arrest. He further submits that the absence of the petitioner was not intentional but the learned trial Court, on the very next date when the warrants was received back unserved, issued the proclamation without satisfying itself that the presence of the petitioner could not be procured except by adopting the said process. He submits that even the impugned order (Annexure P-8) has been passed without complying with the provisions contained in Section 82 Cr.P.C. He contends that the petitioner never received any warrants or proclamation as he had shifted his residence from the address given in the complaint and has referred to rent agreement (Annexure P-5) in this regard. He submits that the petitioner is ready to face the trial and will not absent himself from proceedings in future after granted concession of bail.

3. *Notice to official respondents.*

4. *On the asking of the Court, Ms. Simsi Dhir Malhotra, APP, U.T., who is present in Court, accepts notice on behalf of the respondent State.*

5. *Notice to respondent No.2 be issued for the next date of hearing.*

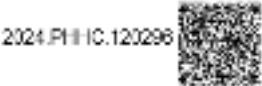
6. *Dasti as well.*

7. *In the meanwhile, the petitioner is hereby directed to appear in the trial Court/ Duty Magistrate within seven days from today and in the event of his arrest, he is ordered to be released on interim bail on his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate, however, subject to the petitioner depositing cost of Rs.10,000/- in the District Legal Services Authority, U.T., Chandigarh.*

8. *List on 30.04.2024."*

6. Keeping in view the fact that the petitioner has already appeared on 22.04.2024 before the learned trial Court and furnished requisite bail/surety bonds consequent to the order dated 05.04.2024 and 16.04.2024, passed by this Court, the present petition is allowed and order dated 20.03.2024 (Annexure P-8), passed by learned Judicial Magistrate 1st Class, Chandigarh, whereby the petitioner was declared as proclaimed

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person is hereby set aside to the extent of declaring the petitioner as
proclaimed person and the interim bail granted vide order dated
05.04.2024 is hereby confirmed.

7. The Petition stands disposed of.

12.09.2024
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(SANJIV BERRY)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |