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

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CRM-M-25548-2024 (O&M)

Date of decision: 12.11.2024

Gursewak Singh alias Sewak**...Petitioners****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. P. S. Sekhon, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 482 of Cr.P.C. for quashing of order dated 19.04.2023 (Annexure P-4), passed by the Court of learned Additional Chief Judicial Magistrate, Faridkot in case titled as ***State vs. Gursewak Singh***, arising out of FIR No. 93 dated 02.05.2021, registered under Section 188 of IPC at Police Station City Kot Kapura, District Faridkot, whereby bail of the petitioner had been cancelled and arrest warrants had been issued against them, as well as for quashing of order dated 04.11.2023 passed in the aforesaid case, whereby the petitioner had been declared a proclaimed person.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the petitioner is facing trial in the aforesaid case and was on bail. He were regularly appearing before the Court concerned. However, he

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absented himself from the Court proceedings on 19.04.2023 due to the fact that he was unwell, consequent to which, his bail had been cancelled by the learned trial Court. Thereafter, proceedings under Section 82 of Cr.P.C. were initiated against him and he was declared a proclaimed person.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was granted concession of bail by the learned trial Court and was regularly attending the Court proceedings but on 19.04.2023, due to being unwell, he could not appear before the learned trial Court resulting into cancellation of his bail. Learned counsel for the petitioner has further submitted that the absence of the petitioner before the learned trial Court on the said date was neither intentional nor deliberate. It is also argued that while declaring the petitioner as a proclaimed person, the proper procedure as prescribed under Section 82 of Cr.P.C. were not followed by the learned trial Court. The petitioner is ready to abide by the terms and conditions to be imposed by this Court. He undertakes to attend the Court proceedings, as and when he is required to do so. It is, therefore, urged that the petition deserves to be allowed and the impugned orders are liable to be set aside.

4. *Per contra*, learned State counsel has argued that the petitioner was having knowledge about the pendency of the trial and had intentionally avoided his appearance before the learned trial Court. Therefore, he was rightly declared a proclaimed person. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. After going through the material placed on record as well as the copies of zimni orders passed by the learned trial Court, no lacuna is found in

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the procedure adopted by the learned trial Court while declaring the petitioner a proclaimed offender. So far as the absence of the petitioner before the learned trial Court on 19.04.2023 is concerned, he has taken a plea that he was not unwell on that day and that is why he could not put in appearance before the Court, which resulted into cancellation of his bail. He has placed on record certain medical reports to support his claim that he was not well on the aforesaid date. Be whatsoever, the absence of the petitioner on the aforesaid date might be either to his carelessness or due to his bad health but it does not attract the consequence of detaining him into custody, keeping in view the fact that earlier he was regularly appearing before the Court. More so, it is apparent that he is ready to appear before the Court concerned and face the trial, which would definitely help in speedy conclusion of trial. Keeping in view the aforesaid facts and circumstances, the present petition is disposed of with a direction to the petitioner to surrender before the learned trial Court within a period of ten days from today and on doing so, he shall be released on bail, subject to his furnishing fresh personal and surety bonds to the satisfaction of the learned trial Court.

7. However, this relief will be subject to payment of Rs.10,000/- as costs, to be deposited by the petitioner with the District Legal Services Authority, Faridkot.

12.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>