

CRM-M-28841-2024
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

115 CRM-M-28841-2024
Decided on: 14.11.2024

Buta Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

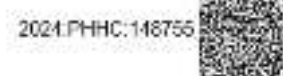
Present: Mr. Sukhbir Maandi, Advocate
for the petitioner.

Ms. Swati Batra, DAG, Punjab.

ANOOP CHITKARA, J.

Criminal Complaint	NACT-318 of 2018 u/s 138 of Negotiable Instruments Act Titled as Talwinder Singh vs. Buta Singh
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1. Aggrieved by the order dated 14.09.2023, passed by the Sub Divisional Judicial Magistrate, Patti, District Tarn Taran, in the complaint captioned above, vide which the petitioner was declared as proclaimed offender, petitioner has come up before this Court by filing the present petition under Section 482 CrPC.
2. Counsel for the petitioner submits that after filing of the complaint, petitioner is regularly appearing before the concerned Court but during the Covid-19, when the entire country was locked down, he was unable to appear and thereafter on 02.05.2022, non-bailable warrants were issued against the petitioner and he was declared proclaimed offender on 14.09.2023.
3. An analysis of the submissions and the petition would lead to the following outcome. It remains undisputed that when the petitioner got to know about issuance of non-bailable warrants and his being declared a proclaimed offender, he took a legal remedy and came up before this Court. It also remains undisputed that it never happened that police officials caught him or tried to run away to avoid an appearance in Court. In such a situation, the petitioner has proved his case by a preponderance of probabilities and has prima facie established that his non-appearance was beyond his control. The



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petitioner within a short span on his own came before this Court, undertaking to attend the trial, and it is not the police who have been able to arrest him.

4. Let the petitioner attend the trial because the criminal justice system must not hamper and suffer because of the petitioner.

5. The primary object of the service is to secure the accused's presence at trial. The petitioner approached this court independently, establishing the bonafide at this stage. Without commenting on the case's merits, and in the facts and circumstances peculiar to this case, and also for the reasons mentioned above, the ends of justice would meet if the impugned proclamation order is quashed qua the petitioner. Thus, exercising the inherent powers under Section 528 BNSS, it would be appropriate to grant the following limited relief to the petitioner, subject to the compliance of the conditions mentioned in this order.

6. The State's counsel submitted that if this Court is granting any concession to the petitioner, it must be subject to some reprimand. The petitioner's counsel declared that if this court imposes reasonable and affordable costs, the petitioner shall deposit the same.

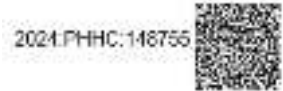
7. Given above, the petitioner shall deposit Rs.5,000/-in the PGI Poor Patients Welfare fund and Rs.5,000/- to the private respondent No.2 and hand over the receipt of deposit to trial Court by the next date. It is clarified that amount of Rs.5,000/- paid to the complainant, shall be counted as part of payment under Section 143(A) of Negotiable Instruments Act.

8. The petitioner is directed to surrender before the concerned Court on or before **22.11.2024 by 2pm**. As earlier he was on bail, on surrender of petitioner, trial Court shall release him on bail on furnishing usual bonds keeping in view of his past conduct. It is clarified that if the petitioner fails to appear before the concerned court within the time limit mentioned in this order, then this order shall be recalled automatically under section 528 r/w 403 BNSS 2023, without any further reference to this court.

9. **It is clarified that this order shall not be construed as an order of bail.**

10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

11. *A certified copy of this order would not be needed, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the concerned court/ officer wants to verify its*



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authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

Petition is allowed to the extent mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

14.11.2024
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Whether speaking/reasoned: Yes
Whether reportable: NO.