



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

**CRM-M-38780-2024
DECIDED ON: 12.08.2024**

PAYAL ALIAS HARMAN

.....PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Rajneesh Budhiraja, Advocate
for the petitioner.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 482 Cr.P.C. for setting aside of order dated 19.07.2024 (Annexure P-2) passed by Court of JMIC, Kaithal whereby the petitioner has been declared proclaimed offender in complaint under Section 138 of NI Act bearing No.NACT/1332/2018.

Learned counsel for the petitioner submits that earlier also the petitioner has approached this Court vide CRM-M-34113-2024 for quashing of the order dated 07.03.2024 passed by learned JMIC, Kaithal, vide which the bail granted to the petitioner was cancelled, warrants of arrest were issued and bail/surety bonds were ordered to be forfeited to the State, which was decided on 22.07.2024 (Annexure P-5), whereby on the basis of compromise dated 22.03.2024, the assurance was given by the complainant to withdraw the complaint on the next date of hearing but it was not done

and actually the complainant has resiled from such compromise and due to this assurance the petitioner did not appear before the trial Court under the mistaken belief, vide order dated 07.03.2024 warrants of arrest were issued but the same remained unexecuted and finally on 22.05.2024 the proclamation was issued for appearance of the petitioner for 19.07.2024.

When the earlier petition came before this Court on 22.07.2024, the petitioner was not aware of the proceedings conducted on 19.07.2024 and was under the impression simplicitor that the case stands deferred for hearing on 30.07.2024.

This Court having note of the factual aspects in the earlier petition, directed the petitioner to surrender before the trial Court within one week and apply for regular bail and also directed the trial Court that in case the petitioner surrenders within a stipulated period of one week therefrom and applies for regular bail, the said application be considered and decided on same very date in accordance with law.

Today, the instant petition has been preferred with an assertion that on 19.07.2024 (Annexure P-2) before passing of the order in the earlier petition on 22.07.2024 as stated hereinabove, the petitioner was declared proclaimed offender and on that account he could not surrender and appear before the trial Court as per the directions given therein and has now sought quashing of the order impugned in this petition.

It is in sequence of aforesaid facts and narrated circumstances, the absence of the petitioner before the trial Court on 19.07.2024 seems to be a bona fide error on his part which is alleged to have taken place due to communication gap between him and his counsel as has been recorded in para 5 of the petition which would read as under:-

“That it is further submitted that the counsel of the Petitioner was not aware of the fact that Petitioner has been declared Proclaimed offender on 19.07.2024, so the incarceration after getting P.O. declared would cause an irreversible injustice to the Petitioner and her family. It is pertinent to mention here that due to some communication gap between the counsels of the Petitioner, Petitioner remained under the bona fide impression that matter was simply adjourned on 19.07.2024 and no adverse order was passed against the Petitioner but truth is Petitioner was declared Proclaimed offender on 19.07.2024.”

Notice of motion.

On the asking of the Court, Mr. B.S. Virk, Sr. DAG, Haryana accepts notice on behalf of respondent No.1-State.

Since almost identical relief already stands granted to the petitioner except the change of circumstance qua declaration of the petitioner as proclaimed offender on 19.07.2024, there is no occasion to reject the instant petition as well and accordingly the petitioner is, therefore, directed to surrender before the trial Court on 14.08.2024 and apply for regular bail.

In case, such an application for bail is moved by the petitioner before the learned trial Court, the same shall be considered on the same date and decided in accordance with law.

In view of the above, the order dated 19.07.2024 (Annexure P-2) is hereby quashed.

However, the costs awarded vide earlier order dated 22.07.2024 passed in CRM-M-34113-2024 would stand as it is and the petitioner has to deposit the said amount before the trial Court while surrendering.

It is made clear that in case the petitioner does not abide by the aforesaid undertaking, the respondent/State shall be at liberty to move an appropriate application for revival of the instant petition.

The instant petition is disposed of in the aforesaid terms.

12.08.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No