



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

347

CRM-M-40981-2024 (O&M)

Date of Decision:- 03.12.2024

HARBANS LAL

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANR

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. Hoshiar Singh, Advocate for the petitioner.

Mr. Amit Shukla, AAG Punjab.

SANJIV BERRY, J. (ORAL)

By way of present petition preferred under Section 528 of BNSS, 2023 the petitioner has sought quashing of impugned order dated 08.05.2024 (Annexure P-4) passed by the Court of learned Judicial Magistrate First Class, Patiala, whereby the petitioner was declared as proclaimed person in case Complaint Case No.968 of 2022 dated 04.04.2022 registered under Section 138 of the Negotiable Instruments Act.

2. Learned counsel for the petitioner has submitted that in compliance to the order dated 07.11.2024 passed by this Court, the petitioner has appeared in the Court and furnished his requisite bail bonds. He has placed on record copy of the order dated 13.11.2024, passed by Judicial Magistrate First Class, Patiala, whereby the petitioner has been admitted on interim bail by the learned trial Court.

3. Learned State counsel has not disputed the aforesaid factum.

4. Heard.



5. During the course of proceedings on 07.11.2024, the following order was passed.

“3. It is, inter alia, contended by learned counsel for the petitioner that the petitioner, after having been summoned in the aforesaid complaint case, had put in appearance and was granted concession of bail vide order dated 25.04.2023 passed by learned Judicial Magistrate Ist Class, Patiala, (Annexure P-5) annexed with the application. He contends that thereafter the petitioner had undergone bye-pass surgery and had moved an application for exemption on 19.07.2023 which, however, was declined and the petitioner was ordered to be summoned through non bailable warrants of arrest. He contends that during the course of proceedings, the Court ordered issuance of the proclamation vide order dated 01.03.2024 for 16.04.2024.

4. Learned counsel for the petitioner has further referred to the proclamation Annexure P-3/A to submit that the same was in fact issued on 24.03.2024 for 16.04.2024 with a specified period of 30 days being not available. He further contends that this proclamation was received back in the Court on 16.04.2024 and it is evident from the perusal of the order that it is allegedly effected on 25.04.2023 but the case was adjourned to 08.05.2024 for which there was no proclamation for the petitioner to appear before the concerned Court. He contends that the procedure laid down under the erstwhile Section 82 of the Cr.PC has not been followed by the learned Trial Court by passing the impugned order dated 08.05.2024 (supra).

5. It is further contended by learned counsel for the petitioner that the absence of the petitioner was on account of having bye-pass surgery and was not intentional. He contends that the petitioner had never received any notice nor any proclamation to appear in the Court. He contends that if the petitioner is granted concession of bail he will regularly appear before the learned Trial Court on each and every date of hearing and face the trial without fail and will seek prior exemption from the concerned Court in case of extreme exigency

6. Notice of motion, returnable for 03.12.2024.

7. On the asking of the Court, Mr. Adesh Pal Singh, AAG, Punjab, who is present in Court, accepts notice and, on instructions from ASI Ranjodh Singh does not



dispute the factual matrix of the case.

8. Notice to respondent No. 2 be issued through Registry of this Court.

9. Process dasti as well.

10. Keeping in view the above facts and circumstances, the petitioner is directed to appear before the learned Trial Court/Judge on duty/Duty Magistrate within a period of 07 days from today and in that event, learned Trial Court/Judge on duty will admit the petitioner on interim bail subject to its satisfaction on his furnishing requisite bail/surety bonds, however, subject to deposit of a cost of Rs. 10,000/- in the District Legal Services Authority, Patiala.

11. The petitioner shall also furnish a specific undertaking before the learned Trial Court/Judge on duty/Duty Magistrate that, in future, he would be regularly appearing before the concerned Court on each and every date and in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed.”

6. Keeping in view the fact that the petitioner has already appeared in the Court and furnished his requisite bail/surety bonds consequent to the order dated 07.11.2024 passed by this Court, the present petition is allowed. The order dated 08.05.2024 (Annexure P-4) passed by the Court of learned Judicial Magistrate First Class, Patiala, is set aside and the interim bail granted vide order dated 07.11.2024 is hereby confirmed.

7. The petition stands allowed.

8. Pending applications, if any, shall also stand disposed of.

(SANJIV BERRY)
JUDGE

03.12.2024
S.Sharma(syr)

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