



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

107

CRM-M-54405-2024  
Date of Decision: 04.11.2024

Avtar Singh ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Amit Kumar, Advocate  
for the petitioner.

Ms. Swati Batra, DAG., Punjab.

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ANOOP CHITKARA, J.

| Complaint No.  | Section             | Titled                            |
|----------------|---------------------|-----------------------------------|
| COMA/1239/2021 | 138 of the N.I. Act | Simranpreet Singh Vs. Avtar Singh |

1. Challenging the order dated 02.01.2024 of proclamation on being declared as proclaimed person in above captioned complaint, the petitioner has come up before this court under section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS].
2. Counsel for the petitioner submits that respondent No.2 filed complaint under Section 138 of the Negotiable Instruments Act, 1881 for dishonour of cheque against the petitioner. He further submits that no notice, warrants of proclamation was served upon the correct address and he referred para No.4 (f) and (g) of petition. Petitioner was unaware of order dated 02.01.2024.
3. Notice served upon the official respondent through State counsel. The nature of order which this Court proposes to pass, there is no necessity of calling any response from the State or issuance of notice to private respondent.
4. 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 order of proclamation, he took legal remedy and



came up before this Court. It also remains undisputed that it never happened that police officials caught him or he 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 petitioner within a short span on his own came before this Court, undertaking to attend the proceeding before the Court and it is not the police who have been able to arrest him.

5. Let the petitioner attend the proceeding because the criminal justice system must not hamper and suffer because of the petitioner.

6. 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.

7. 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.

8. Given above, the petitioner is directed to surrender before the concerned court **on or before 14.11.2024, by 11.00 AM**. On or before this date, if the petitioner files bail application(s), the concerned court keeping in view the nature of offence which is bailable to grant bail to the petitioner on surrendering before the concerned Court subject to furnishing bail bonds by imposing reasonable conditions deemed appropriate in the background of the accused's conduct. The petitioner is directed to appear on each date before the concerned court and not to delay it.



9. Petitioner shall also deposit Rs. 5,000/- in the Poor Patient, Welfare Fund, PGIMER, Chandigarh and handover the receipt of the deposit to the trial court on the date fixed by trial court, or on surrendering.

10. There shall be a stay of the petitioner's arrest in the case mentioned till 14.11.2024, 11.00 A.M. This stay is subject to the petitioner's surrender, failing which this protection shall also be recalled. It is clarified that if the petitioner appears before the concerned court, then all warrants issued by the concerned court against the petitioner in the matter mentioned above shall automatically stand recalled and canceled.

11. 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 read with 403 of BNSS, 2023, without any further reference to this court.

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

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

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

**(ANOOP CHITKARA)  
JUDGE**

**04.11.2024  
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Whether speaking/reasoned: Yes  
Whether reportable: NO.