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

Sr. No.119

**CRM-M-55632-2024(O&M)
Date of decision : 08.11.2024**

M/s Sehgal Poultry Farm and another

..... Petitioners

VERSUS

State of UT Chandigarh and another

..... Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Dhruv Gupta, Advocate, for the petitioners.

KIRTI SINGH, J. (Oral)

The present petition has been filed under Section 528 of BNSS, 2023 for quashing of the impugned order dated 07.10.2024 whereby the petitioner No.2 have been wrongly declared as proclaimed person by the learned Court of JMIC, Chandigarh in complaint case dated 08.06.2022 bearing No.NACT/3711/2022 filed under Section 138 of the Negotiable Instruments Act, 1881 titled as 'M/s Poshtiquam Food and Agro Pvt. Ltd. Vs. M/s Sehgal Poultry Farm.

2. Learned counsel for the petitioners submits that the petitioners was summoned vide order dated 14.12.2022 by the Court of learned JMIC, Chandigarh vide orders dated 21.02.2023 & 15.12.2023 and the matter was continuously adjourned for the service of the accused. In fact, during the course of the proceedings bail of the petitioner No.2 was cancelled and non-bailable warrants of arrest were issued against him vide order dated 26.07.2024. Thereafter, PO proceedings were ordered to be initiated against petitioner No.2 and he was ordered to be summoned through proclamation under Section 82 CrPC vide order dated 05.08.2024 on the basis of mere

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assumption that the petitioner No.2 is very well aware about the pendency of the said case and are deliberately concealing himself. In fact, vide impugned order dated 07.10.2024, he was declared as proclaimed offender.

3. Notice of motion to the official respondents at this stage.

4. At asking of the Court, Mr. Sarvjit, Addl. PP, for UT Chandigarh accepts notice on behalf of respondent No.1-State and waives service. He opposed the petition and submits that the impugned order has rightly been passed by the trial Court.

5. Heard the rival submissions made by learned counsel for the parties.

6. The objective of the coercive mechanism prescribed under the Code of Criminal Procedure is to ensure that the accused remains present before the Court to receive the orders and punishments as are passed qua the accused. If the accused shows his sincere intention and desire to appear before the Court, then it would not be unjustified to protect him from being arrested.

7. On hearing learned counsel for the petitioners and perusing the record, it is apparent that petitioner No.2 was granted bail by the trial Court, however, he was not aware about the proclamation issued against him and on account of the same, his bail bonds/surety bonds were cancelled. The petitioner No.2 is ready to appear before the trial Court and face the trial.

8. This Court finds that no useful purpose will be served by sending the petitioner No.2 in custody and now he is ready to join the proceedings.

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9. In view of the above, the present petition is allowed and order dated 07.10.2024 is hereby set aside **subject to payment of cost of Rs.10,000/- by the petitioners to be deposited with the Poor Patient Welfare Fund, PGIMER Chandigarh** within a period of 15 days from today. The petitioner No.2 after depositing the cost as stated above would appear before the trial Court concerned on the next date fixed i.e. 20.11.2024 and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner No.2 on the same bail bonds/surety bonds. No coercive action would be taken against him till the next date i.e. 20.11.2024. In case, the petitioner No.2 failed to appear before the trial Court on the next date fixed or failed to deposit the cost as stated above, this order would be of no avail to petitioner No.2.

Pending miscellaneous application(s), if any, also stands disposed of.

(KIRTI SINGH)
JUDGE

08.11.2024
Ramandeep Singh

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No