

2024:PHHC:151873



CRM-M-57644-2024

120 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.57644 of 2024 (O&M)
Date of Decision: 20.11.2024

Kamla Devi ...Petitioner

Versus

State of Punjab and Another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Shiv K. Sharma, Advocate
for the petitioner.

Ms. Swati Batra, DAG, Punjab.

ANOOP CHITKARA, J.

Complaint	No. NACT-161-2022 titled as “Bikkar Singh Vs. Kamla Devi etc.”, under Section 138 of the Negotiable Instruments Act.
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Seeking quashing of impugned orders dated 18.09.2023, 25.10.2023 and 28.11.2023 passed by SDJM, Sunam in the complaint captioned above vide which the petitioner has been declared as a proclaimed person, the petitioner has come up before this Court under Section 528 BNSS, 2023.

2. Notice served upon the official respondent through State counsel. The nature of order this court proposes to pass, no response is required from the respondent.
3. Counsel for the petitioner submits that no notice or bailable warrants served upon her. Petitioner was very much present at her residence and nobody came to arrest her, as such, she was not aware of proceedings at all.
4. The primary object of service is to secure the accused's presence in trial. The petitioner has approached this court on its own, 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 in the petition, the ends of justice would meet, if limited relief is given to the petitioner. Furthermore, without adjudicating the maintainability of this petition under section 528 BNSS, 2023 and leaving that question open; given the explanation offered by the accused coupled with the facts and

2024:PHHC:151873



CRM-M-57644-2024

circumstances peculiar to this case, a balanced approach would work as an incentive, a catalyst, speeding up the process, and bringing the guilty to Justice and Justice to the guilty. Thus, exercising the inherent powers under section 528 BNSS, this court deems it appropriate to grant the following limited relief to the petitioner, subject to compliance with the conditions mentioned in this order.

5. The petitioner is directed to surrender before the concerned court on or before 27.11.2024 by 11. 00 am and file a bail petition and avail legal remedy in accordance with law and trial Court is requested to decide his application for bail on the same day without taking into consideration the impugned order of proclamation but on its own merit and grant her bail as offence is bailable.

6. The petitioner shall not be arrested till 27.11.2024, 5.00 PM and any warrant or LOC issued shall stand stayed till that day. **If the petitioner fails to appear before the trial Court on or before 27.11.2024, in that case order shall stand recalled automatically under section 403 read with 528 BNSS, 2023, without any further reference to this court, after 5 PM on 27.11.2024.** This order shall not be construed as bail order.

7. By the given date, the petitioner shall deposit a sum of rupees ten thousand, in the account of **PGI Poor Patient Welfare Fund**, and hand over the receipt to the trial court.

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

9. *There would be no need for a certified copy of this order, 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. In case the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.*

Petition allowed to the extent and subject to the conditions mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

20.11.2024

Sonia Puri

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No.