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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision : 21.11.2024

Jasvir Kaur

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Deepak Aggarwal, Advocate
for the petitioner

Mr. Rubal Pawar, DAG Punjab

KIRTI SINGH, J.(Oral)

The present petition has been filed under Section 528 of BNSS, 2023 for quashing of the impugned order dated 08.12.2023 (Annexure P-12) whereby the petitioner has been wrongly declared as proclaimed person by the learned Court of JMIC, Bathinda in complaint case bearing No. NACT 5153 of 2023 filed under Section 138 of the Negotiable Instruments Act, 1881 titled as '*Rachna Vs. Jasvir Kaur*'.

2. Learned counsel for the petitioner submits that the petitioner was summoned in above stated complaint case and was released on her furnishing personal bonds and opportunity was granted to her for furnishing surety bonds of like amount. However, the petitioner failed to arrange surety and she sought exemption from appearing in order to arrange surety. The petitioner who is a poor lady could not arrange the surety bonds so imposed and sought exemption from hearing for the sole purpose of arranging the surety, however, learned trial Court

vide order dated 26.05.2023 and order dated 14.06.2023 cancelled the bail granted



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to her and vide order dated 21.09.2023 initiated proclamation proceedings against the petitioner under Section 82 Cr.P.C. and due to non-appearance the petitioner was declared as proclaimed offender vide order dated 08.12.2023. Learned counsel for the petitioner contends that the petitioner is a poor lady aged 47 years and due to her financial condition she failed to arrange the surety bonds and for the sole purpose of arranging surety she could not appear before the learned trial Court, however, she is willing to appear before the learned trial Court and join the trial.

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

4. At asking of the Court, Mr. Rubal Pawar, AAG Punjab 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 her sincere intention and desire to appear before the Court, then it would not be unjustified to protect her from being arrested.

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

8. In view of the above, the present petition is allowed and order dated 08.12.2023 (Annexure P-12) is hereby set aside subject to payment of cost of Rs.10,000/- by the petitioner to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh within a period of two weeks from today. The petitioner after depositing the cost as stated above would appear before the trial Court on or

before the date fixed and file appropriate application along with receipt of payment



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of cost. The trial Court would release the petitioner on same bail bonds/surety bonds. In the meanwhile, no coercive action would be taken against the petitioner. In case, the petitioner fails to appear before the trial Court within three weeks or fails to deposit the cost as stated above, this order would be of no avail to the petitioner.

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

21.11.2024

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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No

Whether reportable? Yes/No