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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-58117-2024
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 18.03.2024 (Annexure P-11) whereby the petitioner has been wrongly declared as proclaimed person by the learned Court of JMIC, Bathinda in complaint case bearing No. NACT 3575 of 2023 filed under Section 138 of the Negotiable Instruments Act, 1881 titled as '*Surinder Singh Vs. Jasvir Kaur*'.

2. Learned counsel for the petitioner submits that the petitioner was summoned in above stated complaint case and due to non-appearance, her bail was cancelled and learned trial Court, vide order dated 01.12.2023 granted bail to the petitioner after observing that the petitioner could not appear due to mis-carriage of her daughter and cost of Rs. 30,000/- was imposed upon the petitioner under Section 446 Cr.P.C. The petitioner who is a poor lady could not arrange the fine so imposed and sought exemption from hearing for the sole purpose of arranging

the fine, however, learned trial Court vide order dated 15.01.2024 cancelled her

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bail and vide order dated 05.02.2024 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 18.03.2024. 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 fine of Rs. 30,000/- imposed and for the sole purpose of arranging funds 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 respondent 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.

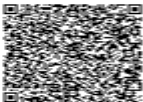
5. Heard the rival submissions made by learned counsel for the parties.

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 she is ready to join the proceedings.

8. In view of the above, the present petition is allowed and order dated 18.03.2024 (Annexure P-11) is hereby set aside subject to payment of fine imposed by learned trial Court under Section 446 Cr.P.C. if any. The petitioner shall appear before the trial Court concerned on the next date fixed and file appropriate application along with receipt of payment of fine. The trial Court would release

the petitioner on the same bail bonds/surety bonds. No coercive action would be



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taken against her till the next date of hearing. In case, the petitioner 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.

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