

**CRM-M-59982-2024**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-59982-2024

Date of Decision : 02.12.2024

Ravi Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Davinder Pal Soni Jaura, Advocate
for the petitioner

Mr. Gurpartap S. Bhullar, AAG Punjab

KIRTI SINGH, J.(Oral)

The present petition has been filed under Section 528 of BNSS, 2023 for quashing of the impugned order dated 28.09.2023 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Ludhiana in FIR No. 017 dated 28.01.2023 registered under Sections 379/411 of IPC at Police Station Model Town, District Ludhiana, Punjab whereby the petitioner has been wrongly declared as proclaimed offender by the learned Court of JMIC, Ludhiana.

2. Learned counsel for the petitioner *inter alia* contends that vide order dated 19.08.2023 learned Judicial Magistrate 1st Class, Ludhiana issued proclamation against the petitioner for 28.09.2023 and directed the serving constable to execute the proclamation on or before 28.08.2023. He further submits that vide impugned order dated 28.09.2023 the petitioner was declared proclaimed offender without complying with the mandatory provisions envisaged in Section



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82 of Cr.P.C. Learned counsel submits that the petitioner is ready to appear before the learned trial Court and join the trial.

3. Notice of motion.

4. At asking of the Court, Mr. Gurpartap S. Bhullar, AAG Punjab accepts notice on behalf of respondent-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 28.09.2023 (Annexure P-2) 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 one week. The petitioner after depositing the cost as stated above would appear before the trial Court on the next date fixed and file appropriate application along with receipt of payment of cost. The trial Court would release the petitioner on bail on same bail bonds. No coercive action would be taken against the petitioner till the next date fixed by the learned trial Court. 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 the petitioner.



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

02.12.2024
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(KIRTI SINGH)
JUDGE

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No