

**CRM-M-64856-2024**

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of Decision : 20.12.2024

Sukhwinder Singh @ Sukha

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Akbarjit Singh, Advocate
for the petitioner (through Video Conferencing)

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 04.01.2021 (Annexure-P/3) passed in case No. CHI-165 of 2019 titled as *State of Punjab versus Puran Singh @Puri etc.* passed by learned JMIC Sultanpur Lodhi arisen out of FIR. No.0015 dated 08.02.2019 registered under Sections 353,186,224,225,332 and 34 IPC at Police Station Talwandi Chaudhrian (Annexure-P/1).

2. Learned counsel for the petitioner submits that the petitioner left on work visa to Malaysia in 2019 and was residing there since then. Not having been named as an accused in the above-mentioned FIR, the petitioner was unaware of the criminal proceedings initiated against him by the learned Court. He further submits that neither there was proper service of summons nor was the proclamation executed. Despite that, when the petitioner came to know about the PO proceedings, he approached this Court for quashing of the impugned order.

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The non-appearance of the petitioner is bonafide and not intentional and, thus, one opportunity be granted to him to appear before the learned trial Court.

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

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. On a conspicuous analysis of the circumstances of the case, it surfaces that the procedure entailed in Section 105 Cr.P.C., to effect the service of judicial papers to the petitioner, who was residing abroad, was not followed. Given the fact that the petitioner has returned to the country and is ready and willing to join the proceedings, this Court finds that no useful purpose will be served by sending the petitioner in custody.

8. In view of the above, the present petition is allowed and order dated 04.01.2021 (Annexure P-3) is hereby set aside subject to payment of cost of Rs.25,000/- 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 furnishing fresh 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.

20.12.2024

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**(KIRTI SINGH)
JUDGE**

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