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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 3457/2024 CRL.M.A. 33239/2024 CRL.M.A.

33240/2024

NIWAS NIKAM

.....Petitioner

Through: Mr. Keshav Sharma, Mr. Rishabh
Kumar, Mr. Rohit Rana, Advs.

versus

THE STATE GNCT OF DELHI

.....Respondent

Through: Ms. Rupali Bandhopadhyay, ASC
(GNCTD) with Mr. Abhijeet Kumar,
Adv.
SI Bharat Singh PS Uttam Nagar

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

06.11.2024

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1. This petition is filed for setting aside order dated 15th October 2024 passed by JMFC-08, South-West, Dwarka, New Delhi in FIR No.276/2011 under Sections 380 IPC at PS Uttam Nagar. Charge sheet was filed under Section 380/454/411/34 IPC. *Vide* the impugned order, application filed by petitioner for cancellation of proceedings under Section 82 Cr.P.C. *qua* him, was dismissed.

2. Counsel for petitioner points out that the FIR was registered in 2011, charge sheet filed in 2016, and petitioner appeared before the Trial Court till 25th February 2020 during the COVID-19 pandemic. Till then, he was working in a jewellery shop in Najafgarh and, therefore, address of Najafgarh had been provided. Thereafter, he went back to his native residence in Maharashtra and, therefore, was not apprised of the



proceedings post-pandemic.

3. Notices having been served on Najafgarh address, returned unserved and, therefore, Non-Bailable Warrants were issued, followed by initiation of proceedings under Section 82 Cr.P.C. on 4th November 2023. Statement of Process Server also shows that the process was served at the Najafgarh address.

4. In these circumstances, the Court is inclined to allow the petition. Accordingly, proceedings under Section 82 Cr.P.C. are set aside.

5. Counsel for petitioner, on instructions, states that petitioner will appear before the Trial Court on 13th November 2024.

6. Counsel for petitioner draws attention to order dated 6th August 2024 whereby notices were issued to surety to appear on the next date of hearing; on 15th October 2024, accused appeared before the Court through VC along with his surety who appeared in person before the Court. The JMFC noted that bail bonds were already forfeited since he had not appeared physically in the Court.

7. In this view of the matter and directions passed above, it is directed that in the event bail bonds are not forfeited, the same shall continue, otherwise the petitioner shall file fresh bail bond and surety bond.

8. Additionally, petitioner shall supply his fresh address and contact number to the Trial Court.

9. Petition stands disposed of with above directions.

10. Pending applications are disposed of as infructuous.

11. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 6, 2024/sm/sc