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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-6859-2025

Date of Decision: 07.02.2025

VIVEK GAUR AND ANR

....Petitioner(s)

VERSUS

STATE OF HARYANA AND ANOTHER

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Mukul Gupta, Advocate for the petitioners.

Kanwar Sanjiv Kumar, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. Instant petition, under Section 528 of the BNSS, 2023 (earlier Section 482 Cr.P.C.), has been filed for quashing of the order dated 15.06.2023 (Annexure P-1), whereby petitioners were declared proclaimed offenders in the proceedings emanating from complaint case No.NACT 25875/2018 dated 31.07.2018.

2. Counsel for the petitioners submits that proceedings before the Court of learned trial Court (JMFC, Gurugram) are in regard to the bouncing of cheque amounting to Rs.5 lakhs, against the petitioners under Section 138 of the Negotiable Instruments Act. Complaint was instituted in the year 2018 and summoning order was passed on 10.03.2022 (Annexure P-5). Thereafter, complainant appeared before the Court and was also granted bail. In fact, complainant was appearing through his counsel.

Counsel submits that except of the absence period in question, petitioners had been appearing on each and every date through their counsel before the learned trial Court since 2022, however, on account of their absence, non-bailable warrants were issued and subsequently, application for seeking exemption from appearance was also dismissed. Subsequent thereto, process for issuance of proclamation was started and



petitioners were declared as proclaimed persons vide order dated 15.06.2023 (Annexure P-1).

Counsel further submits that the business of the petitioners' company is in losses and there are several other hardships being faced by them and the insolvency proceedings are also pending before the NCLT, since the year 2019.

Further submits that in case one opportunity is granted for releasing the petitioners on bail, by protecting them from arrest, the petitioners undertake that they would not absent themselves in future, without there being prior permission from the Court, and fully cooperate for early disposal of the trial, failing which they are ready to face the consequences.

Also prays that the petitioner be released on bail on the same bail bonds/surety bonds, if not forfeited already by the time of surrendering of the petitioner before the Court.

3. Notice of motion.

4. Learned State counsel puts an appearance, and opposes the request of the petitioner by submitting that petitioner does not deserve any sympathy, because, he has misused the concession of bail granted by the Court. Learned State counsel further submits that looking at their behaviour, there is no surety that in future, petitioners would not be absent for the purpose of delaying the trial.

5. In number of cases, this Court has considered similar plea of appearance, expressed at the instance of the accused, who failed to appear before the Court at appropriate time, and observed that:

“paramount consideration of the Court is to secure presence of accused on each and every date for speeding up the trial for its final conclusion. Already Courts are flooded with so much litigation, resulting in slow pace of work, because of more than one reason. The required energy and manpower be used for expediting the proceedings of the Court, instead of running after the accused persons to get hold of them.”

[see: *Ashish Kumar Honda @ Ashish Handa v. State of Punjab*, Law Finder Doc Id # 2038111; and *Veena @ Veena Devi v. State of Punjab* (CRM-M-2206-2025, decided on 16.01.2025)]

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6. I have considered the submissions of both the sides and examined the relevant material available on record. The petitioners have remiss in appearing before the Court only on one date i.e. on 15.06.2023 when they have been declared as proclaimed offenders. It also cannot be left unnoticed that on coming to know about passing of the impugned order, the petitioners have moved the present petition, showing their inclination to submit themselves before the trial Court.

7. In totality of circumstances, I am of the view that the petitioner can be given one chance to appear before the trial Court, so that proceedings may restart and continue in smooth manner. Accordingly, plea of the petitioner is accepted. Impugned order dated 15.06.2023 is set aside to the extent of issuance of non-bailable warrants against the petitioner, and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court on or before 24.02.2025.

The petitioners shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court, in case the bail bonds have already been forfeited. Besides, petitioners would also submit specific undertaking/affidavit that they will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of their conduct.

However, this order shall be subject to the payment of Rs.15,000/- (each) as costs, to be deposited by the petitioner in an Old Age Home of the area, as may be decided by the learned Trial Court. The Trial Court shall also specify the time frame within which such costs will be required to be deposited.

Let costs amount be deposited and receipt be shown to the concerned Court by appearing, failing which this order would not be of any advantage to the petitioners.

8. With aforementioned terms, present petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

February 07, 2025

Sangeeta

Whether reasoned/speaking:

Yes/No

Whether reportable:

Yes/No