



143

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

CRM-M-5973-2025

Date of Decision: 03.02.2025

RASHPAL KAUR

....Petitioner(s)

VERSUS**STATE OF UT CHANDIGARH AND ANR**

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Rahul Garg, Advocate for the petitioner.

Mr. Abhinav Gupta, Addl. P.P. U.T. Chandigarh.

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 15.02.2020 (Annexure P-3), whereby the petitioner has been declared as proclaimed person, on account of his non-appearance in complaint No.NACT-5156-2017 titled as *Sukhbir Singh vs. Rashpal Kaur* filed under Section 138 of Negotiable Instruments Act.

Learned counsel for the petitioner submits that on account of bouncing of two cheques i.e. 632306 dated 17.04.2017 amounting to Rs.1,20,000/- and 632307 dated 03.05.2017 amounting to Rs.1,20,000/-, respondent No.2-Sukhbir Singh has filed the complaint under Section 138 of NI Act, and on issuance of notice in complaint, the petitioner appeared and in due course she was released on bail.

Subsequently, on account of her non-appearance on 04.12.2019, by cancelling the bail, non-bailable warrants were issued against the petitioner and thereafter vide order dated 15.02.2020 (Annexure P-3), petitioner was declared proclaimed person.



2. Learned counsel for the petitioner submits that the petitioner is a widow and there is no one else to help her out and due to Covid -19 pandemic, she could not appear w.e.f. 2020 to 2022.

Further submits that in case, one opportunity is granted for releasing the petitioner on bail, by protecting her from arrest, the petitioner undertakes that she would not absent herself in future, without there being prior permission from the Court, and fully cooperate for early disposal of the trial.

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, she has misused the concession of bail granted by the Court. Learned State counsel further submits that looking at her behaviour, there is no surety that in future, petitioner 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)]

6. I have considered the submissions of both the sides and examined the relevant material available on record. The petitioner could not appear before the Court only on one date i.e. on 04.12.2019, and th at



is when impugned order cancelling the bail, bail bonds and issuance of non-bailable warrants has been passed against her. It also cannot be left unnoticed that within two months of the absence from the Court, and on coming to know about passing of the impugned order, the petitioner has moved the present petition, showing his inclination to submit herself 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 (supra) is set aside to the extent of issuance of non-bailable warrants against the petitioner, and she is directed to be released on bail, in the eventuality of surrender by her before the trial Court on or before 21.02.2025.

The petitioner 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, petitioner would also submit specific undertaking/affidavit that she will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

However, this order shall be subject to the payment of Rs.10,000/- 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, but not more than two weeks, failing which this order would not be of any advantage to the petitioner.

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

(SANJAY VASHISTH)
JUDGE

February 03, 2025
Sangeeta

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO