



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

125

CRM-M-6958-2025

Decided on : 18.03.2025

Kala

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Imtiaz Hussain, Advocate for the petitioner(s).

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

1. By way of present petition filed under Section 482 Cr.P.C, petitioner is seeking quashing of order dated 27.03.2023 (Annexure P-2), passed by learned Civil Judge, Nuh, whereby the petitioner has been declared as proclaimed person in case FIR No. 124 dated 04.12.2016, under Sections 323, 324, 326, 509, 506, 342 and 452 read with Section 34 IPC, registered at Police Station Women Police Station, District Nuh.

2. Learned counsel for the petitioner *inter alia* contends that there being no notice or information to the petitioner, he could not join the proceedings before learned trial Court. Resultantly, on account of non-appearance, learned Trial Court vide its order dated 27.03.2023, declared the petitioners as 'Proclaimed Person'. For reference, same is reproduced herebelow:

“ Present: Sh. Surender, APP for the State.

*Accused Ismail on bail with Sh. Wazid Khan, Advocate
Accused Sabir and Kala absent.*

*Proclamation issued against the accused had already been duly effected and statement of serving Constable is already recorded to that effect. Today, none appeared on behalf of accused despite repeated calls since morning. Waited Sufficiently. Hence, **accused Sabir and Kala are declared as proclaimed person.** Intimation in this regard be sent to PO staff and SHO concerned with a direction to register FIR u/s 174-A IPC and to enter the name of the accused in the relevant register maintained as per police rules and with the further direction to arrest the accused and produce them before the Court as soon as possible by taking all*

necessary steps as per law.

List of property of accused Sabir and Kala for the purpose of attachment be filed on 11.05.2023.

Now to come up on 11.05.2023 for prosecution evidence. Pws be summoned accordingly.

Date of order: 27.03.2023

*(Satish Kumar)
CJ(SD), (HR-0240)
Nuh ”*

3. This Court realizes that it would not be fair to conduct three separate trials for the same case based on the whims of the accused persons. On 25.02.2025, following order was passed:

“1. At the outset, counsel for the petitioner produced the copy of judgment dated 03.02.2025, passed by the trial Court in CIS No.CHI-88-2017, titled as, "State v. Sabir and others", in Court today, which is taken on record, subject to all just exceptions.

2. As per the said judgment, co-accused - Ismile s/o Rashid, after being tried, has been acquitted by the trial Court, however, no decision could be given qua accused - Kala s/o Munsharif (petitioner herein) and Sabir s/o Chunna, who were declared 'proclaimed persons' vide order dated 27.03.2023 (Annexure P-2).

3. Through instant petition, petitioner - Kala has submitted that he be granted some protection, as he is ready to surrender before the Court below to join the process of law.

However, this Court realizes that it would not be fair to conduct three separate trials for the same case based on the whims of the accused persons. One trial has already been completed, and judgment dated 03.02.2025 has been rendered by the trial court. If the present petitioner's request is accepted, it would necessitate conducting the trial proceedings second time, and when the third accused - Sabir, appears with a similar request, the entire exercise would have to be repeated once again.

4. Let the third accused - Sabir, also appear before this Court to make submissions similar to those of the present petitioner in this petition.

5. Adjourned to 18.03.2025.”

4. In pursuance to the order dated 25.02.2025, learned counsel for the petitioner submits that third accused namely; Sabir could not be contacted, however, submits that petitioner is inclined to join the process of law before learned Trial court and undertakes to co-operate throughout the proceedings before the trial Court. Learned counsel further submits that the non-

appearance of the petitioner before learned Trial Court was neither intentional nor a deliberate act, rather it was due to the reason explained and noticed hereinabove.

5. He further contends that, if one more opportunity is afforded to the petitioner to appear by granting some protection from arrest, he undertakes that in all the future proceedings of the present case, he would never be absent from the Court, except by obtaining prior permission from the Court, and thus will fully cooperate in the Court proceedings for early completion of trial.

6. Notice of motion.

7. On asking of the Court, Mr. Amandeep Singh, DAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State.

A copy of the complete paper book has been supplied to him by learned counsel for the petitioner.

8. Learned State counsel opposes the request of the petitioner, and submits that petitioner has willfully remained absent from the proceedings of learned Trial Court and thus, does not deserve any sympathy. Therefore, petitioner should be directed to surrender before the Court and to face trial.

9. I have heard learned counsel for the parties and perused the relevant material on record. It is evident that petitioner is inclined to join the process of law, and by way of present petition, he is seeking one chance to join the proceedings before the learned Trial Court, by abiding to the terms and conditions.

10. In number of cases, wherein, accused stopped appearing in criminal cases, the Courts are compelled to declare accused as 'Proclaimed Person/Proclaimed Offender'. After examining the facts, this Court has formulated a uniform method to ensure the presence of accused before the

concerned Court, to enable it to proceed further instead of delaying the proceedings by awaiting the presence of accused.

Intentional or unintentional default of the accused can be dealt with by examining the facts from case to case involved, and where it is realized that absence or prolonged absence of such accused is intentional to evade the process of law, he/she can be penalized examining the nature of crime in which he is facing the proceedings and thereupon by imposing some cost amount subject to his/her capacity to pay.

Primary object of every Court is only to examine the commission of crime in question before it *vis a vis* the person/accused, who is subjected to such proceedings, and if possible justice be imparted at the earliest without unnecessary delay. It is not expected that undue time would be devoted in securing the presence of absconded accused and also to waste energy by enforcing the special mechanism to arrest such accused.

Considering all such aspects, this Court in the case of ***Ashish Kumar Honda @ Ashish Handa Vs. State of Punjab, 2022 (4) RCR (criminal) 765; Law Finder Doc Id # 20238111*** 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.”

Again, this Court has considered the aforementioned similar plea in case ***Veena @ Veena Devi v. State of Punjab (CRM-M-2206-2025, decided on 16.01.2025)***.

11. 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 27.03.2023(Annexure P-2) is set aside to the extent of declaring the petitioner as 'proclaimed person', and he is directed to be released on bail, in the eventuality of surrender by him before the trial Court on or before 04.04.2025.

12. Petitioner shall also furnish fresh bail bonds/surety bonds to the satisfaction of the trial Court. Besides, petitioner would also submit specific undertaking/affidavit that he will keep appearing during the proceedings of the trial in future and the proceedings would not be delayed because of his conduct.

13. However, this order shall be subject to the payment of Rs.20,000/- (Rupees twenty thousand only) 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.

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

(SANJAY VASHISTH)
JUDGE

March 18, 2025

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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No